

## The Gazette



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## NOTICE

The undermentioned *Gazettes of India Extraordinary* were published upto the 1st January, 1963 :—

Issue No.	No. and date	Issued by	Subject
222.	No. 169-ITC(PN)/62, dated 28th December, 1962.	Ministry of Commerce & Industry.	Export Promotion Scheme for Art Silk Fabrics—Import of Staple Fibre Yarn and Synthetic Spun Yarn containing blends of Synthetic Fibre and Rayon Fibre.
223.	No. 8/26/62-Imp., dated 29th December, 1962.	Ditto	The Newsprint Control (Third Amendment) Order, 1962.
224.	No. CH(I)-6(9)/61, dated 31st December, 1962.	Ditto	The Prices of Soda-Ash will continue to operate till the 31st January, 1963, as announced in Resolution No. CH(I)-6(9)/61, dated the 5th January 1962.
225.	No. CH(I)3(2)/61, dated 31st December, 1962.	Ditto	The ex-works selling price of Calcium Carbide in various sizes of packing, will continue to operate till further notice as announced in Resolution No. CH(I)-3(2)/61, dated the 5th January, 1962.
226.	No. 170-ITC(PN)/62, dated 31st December, 1962.	Ditto	Incentive Scheme for Export of Vanaspati/Hydrogenated Oil, Refined Vegetable Oils (including Salad Oil) and Groundnut Oil.
	No. 171-ITC(PN)/62, dated 31st December, 1962.	Ditto	Import of Date [S. No. 21(b)/IV] from Saudi Arabia, Muscat and other Persian Gulf Ports excluding Iran and Iraq during September, 1962—February, 1963, by Sailing Vessels.
	No. 16/62, dated 31st December, 1962.	Ditto	Import Trade Control—Open General Licence No. LXXI.
1.	No. 62(3)-I.R./62, dated 1st January, 1963.	Ditto	Cancelling the notifications No. 2(I)-T.R./62, dated the 14th November, 1962, No. 22(I)-T.R./62-I, dated the 16th November, 1962; No. 22(I)-T.R./62-II, dated the 16th November, 1962.
2.	No. P.N. (U.K. Licensing)/6 of 1962, dated 1st January, 1963.	Ditto	Scheme for the licensing of the export of Cotton Yarn from India to the U. K. for the year 1963.

Copies of the *Gazettes Extraordinary* mentioned above will be supplied on Indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these *Gazettes*.

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## PART I—Section 1

**Notifications relating to Non-Statutory Rules, Regulations and Orders and Resolutions issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Supreme Court**

## PLANNING COMMISSION

## RESOLUTION

*New Delhi, the 2nd January 1963*

SUBJECT.—*Technical Panel on Import Substitution.*

No. I&M-11(2)/62.—On 29th August, 1962 a Technical Panel on Import Substitution was appointed. In view of the present emergency the Panel will not be able to continue its work in the normal way. It has therefore been decided to dissolve the Panel.

## ORDER

Ordered that a copy of the Resolution be published in the Gazette of India and communicated to all concerned.

S. R. SEN, Jt. Secy.

## योजना आयोग

## संकल्प

नई दिल्ली, 2 जनवरी, 1963

विषय :—आयात स्थानापन्नता के लिए तकनीकल पैनल।

संख्या आई० एण्ड एम०-11(2)/62.—29 अगस्त, 1962 को आयात स्थानापन्नता के लिए तकनीकल पैनल नियुक्त किया गया था। परन्तु वर्तमान आपातकालीन स्थिति में पैनल को अपना काम सामान्य रूप से चालू रखना सम्भव न होगा। अतः यह निश्चय किया गया है कि पैनल को विघटित कर दिया जाय।

## आर्क्ष

आर्क्ष दिया जाता है कि संकल्प की एक प्रति भारत के गजट में प्रकाशित की जाय तथा सभी सम्बन्धित व्यक्तियों को भेज दी जाय।

स० र० सेन, संयुक्त सचिव।

## MINISTRY OF HOME AFFAIRS

## RESOLUTION

*New Delhi, the 6th January 1963*

No. 20/16/62-A.N.—The Government of India have carefully considered the report of the Commission of Inquiry set up in June, 1962, to inquire into and report on:—

(i) the circumstances under which the police resorted to firing on the 10th April, 1962, at Phoenix Bay, Port Blair;

(ii) whether or not the said firing was justified and necessary.

2. As regards the circumstances under which the police resorted to the firing on the 10th April, 1962, the Government have accepted the findings of the Commission that the workers did obstruct and overawe the Labour Force workers there and prevented them from doing their duties and that there was no peaceful picketing.

3. The Government have also accepted the conclusion of the Commission that both the effective firings by the police on the 10th April, 1962, were not only justified but also necessary and that there was no excess of force used by the police under the circumstances mentioned above.

4. The Government take this opportunity to convey their thanks for the work done by the Commission.

ORDERED that the resolution and the Commission's report be published in the Gazette of India for general information.

## PART—I

## PRELIMINARY MATTERS AND THE CASES OF VARIOUS PARTIES.

**Appointment of the Commission.**—The Commission of inquiry was appointed by the notification No. 44/1/62-ANL(I) issued by the Government of India, Ministry of Home Affairs, New Delhi, on the 25th June, 1962 and published in the Gazette of India, Extraordinary, Part II—Section 3—Sub-Section (ii) of even date which is reproduced below:—

"Whereas the Central Government is of opinion that it is necessary to appoint a Commission of Inquiry to enquire into the police firing at Phoenix Bay, Port Blair on the 10th April, 1962,

Now, therefore, in exercise of the powers conferred by Section 3 of the Commissions of Inquiry Act, 1952 (60 of 1952) the Central Government hereby appoints a Commission of Inquiry consisting of Shri R. R. Bhole, District and Sessions Judge, Aurangabad, to enquire into and report on:—

- (i) the circumstances under which the police resorted to firing on 10th April, 1962, at Phoenix Bay, Port Blair; and
- (ii) whether or not the said firing was justified and necessary.

The Commission shall submit its report to the Secretary to the Government of India, Ministry of Home Affairs, New Delhi, within a period of two months from the date of the issue of this notification or within such further period as may from time to time be fixed by the Central Government in this behalf".

The time for submission of the report by the Commission was, however, extended up to the 15th October, 1962.

**2. Work of the Commission.**—The Commission of Inquiry reached Port Blair on the 3rd July, 1962. Immediately after arrival at Port Blair, a notification bearing No Com/1/62 dated the 4th July, 1962, was issued by the Commission for general information inviting written statements of facts relevant to the inquiry from all persons having knowledge of such facts. As required under sub-rule (1)(a) of Rule 2 of the Central Commissions of Inquiry (Procedure) Rules, 1960, notices were also served on the Chief Commissioner, the District Magistrate, the Superintendent of Police of the Andaman and Nicobar Administration and the President, P.W.D. Workers' Union, Port Blair, calling upon them to furnish a statement about their knowledge of the facts relevant to the enquiry. The Secretary of this Commission forwarded a copy of this notice to the Secretary to the Chief Commissioner, Andaman and Nicobar Administration with a letter stating that the Commission would welcome a written statement from the Andaman and Nicobar Administration on the facts and circumstances under which the police resorted to firing at Phoenix Bay on the 10th April 1962 and on any matter which the Administration may like to place before the Commission in order to assist the inquiry.

**3.** The last date for filing the written statements, fixed by the Commission, was 18th July, 1962, but it was later extended to 25th July, 1962 on the request of the parties. In response to the notices and the notification issued by the Commission as stated above, written statements (detailed in Appendix I) were filed by 62 persons on behalf of the Andaman and Nicobar Administration, 9 on behalf of the Andaman Sarvajanic Vibhag Mazdoor Sangh, one on behalf of the Andaman and Nicobar Labour Welfare Association and 90 on behalf of the Andaman P.W.D. Workers' Union. The Andaman and Nicobar Administration, however, adopted the written statement filed by the District Magistrate.

**4.** After examination of the written statements received by this Commission, it was found that after promulgation of an order under section 144 of Cr. P.C. on 10th April 1962, the firing was ordered by the District Magistrate, Andaman and Nicobar Islands. It was, therefore, thought fit to issue him a notice under rule 4 of the Central Commissions of Inquiry (Procedure) Rules, 1960. He was also added as a necessary party to these proceedings.

**5.** A preliminary meeting of the representatives of the parties was held on the 11th July, 1962 and again on the 1st August, 1962 in which the matters relating to representations of parties, venue of the inquiry and the procedure to be followed by the Commission were discussed and decided.

**6.** The following parties took part in the proceedings:—

1. The Andaman and Nicobar Administration and the District Magistrate, Shri B. K. Halve.
2. The Andaman P.W.D. Workers' Union.
3. The Andaman and Nicobar Labour Welfare Association.
4. The Andaman Sarvajanic Nirman Vibhag Mazdoor Sangh.

The Andaman and Nicobar Administration and the District Magistrate was represented by Shri H. K. Chawla. Shri N. C. Chakravarty, Senior Advocate, Calcutta later on addressed the Commission on their behalf at the argument stage.

The P.W.D. Workers' Union was first represented by Shri D. P. Chaudhuri, Advocate, Calcutta and later on by Shri S. Ramaswami, Advocate, Madras and also by Shri M. Kumaramangalam, Senior Advocate, Madras at the argument stage. The Andaman and Nicobar Labour Welfare Association was

represented by its Secretary, Shri M. M. Saklani and the Andaman Sarvajanic Nirman Vibhag Mazdoor Sangh by its General Secretary, Shri P. M. Koya. Shri P. M. Koya did not take any active part in these proceedings *except* producing and examining his own witnesses.

**7.** The Commission recorded the evidence at Port Blair from the 3rd August to the 27th August, 1962. During this period 35 witnesses were examined on behalf of the Administration, 39 on behalf of the P.W.D. Workers' Union, one on behalf of the Andaman Labour Welfare Association, 8 on behalf of the Andaman Sarvajanic Nirman Vibhag Mazdoor Sangh and one witness on behalf of the Commission. A list of witnesses examined by the Commission is added as appendix II.

The Commission examined only such witnesses as had already filed written statements. The Administration, however, examined nine witnesses without previous written statements including Shri Barpujari, Agricultural Officer who did not file the written statement because he was reported to be on the mainland during the currency of the time given for filing the written statements.

**8.** The Administration filed 171 documents and the other parties 20 documents. 38 documents were summoned to be produced at the instance of the Commission. All the documents filed are listed in Appendix III.

**9.** Spot inspection of the place of occurrence was conducted twice by me once on the 3rd August, 1962 and again on the 26th August, 1962. My observations of spot inspection are contained in my notes of even dates (Appendices IV and V).

**10. Cases of the respective parties.**—In these proceedings before the Commission the principal contest was between the Administration of the Andaman and Nicobar Islands and the Andaman P.W.D. Workers' Union, Port Blair. There were also other parties *viz.* the Andaman and Nicobar Labour Welfare Association represented by its Secretary Shri M. M. Saklani and the Andaman Sarvajanic Nirman Vibhag Mazdoor Sangh. All these parties also led evidence before the Commission. Shri M. M. Saklani, however, was the only witness on behalf of the Andaman and Nicobar Labour Welfare Association.

**11. Andaman and Nicobar Administration's case.**—The case of the Administration is that there were two major strikes, *viz.* one on the 8th January 1962 and the other on the 9th April 1962 and that culminated in the firing on the 10th April 1962. According to Shri S. N. Gupta, Principal Engineer of the P.W.D. of these Islands, about 200 P.W.D. workers had struck work on the 8th January, 1962, and went in procession to the Secretariat premises at Port Blair at about 9.30 a.m. Certain representatives of the workers met him in his room at that time. His estimate about the total strength of the P.W.D. workers was about 8,600 and out of these some workers were on the regular pay scales and some were borne on the muster rolls. There were also casual labourers as well as contract labourers in the P.W.D. According to him all these categories of labourers were borne either on muster rolls or on work-charged establishment. He is not able to say which category of workers struck work on the 8th January, 1962. When he met the representatives of the workers in his room at that time, Shri B. K. Halve, Labour Commissioner who was also the District Magistrate, was present in his room. According to him at that time there was only one demand and that was for an increase of Rs. 5/- in the wages of the workers. According to him there was no demand by them that the scales recommended by the Second Pay Commission were to be given to those who were already in the prescribed scales of pay or to give reliefs to any worker recommended by the said Commission. He denies having told Shri Ganesh, one of the representatives of the workers who met him, that they would take a decision on the matter of their demand within 15 to 20 days from that day and that he would let the workers know about their decision. He explained that he has not given any time limit to the workers and that he did not promise that the matter would be decided by the end of January 1962 or within 15 to 20 days from that day.

**12. Incidents of 9th April 1962.**—The case of the Administration further is that on 9th April 1962 in the morning a procession of about 1500 workers came to the Secretariat building at Port Blair. Shri Gupta says that when he was in his office he heard the shouting of slogans. He came out and saw a big crowd. He asked them how they assembled there and why they struck work without notice. He wanted to talk to the workers but everybody was talking to him and therefore, he could not make out why the workers struck work on that date. He therefore requested the workers to send their leaders or representatives to his office to inform him about their grievances. According to him the workers told him at that time that they had no leader and therefore they could not send any leader or representative to meet him. The Principal Engineer then asked them to give their demands in writing so that he could consider them. The workers shouted that they were all uneducated and therefore they could not give him their demands in writing. The Principal Engineer says that he had no other alternative at that time but to

go to his office room. It appears, however, that after some time 10 to 12 workers went to his office-room. Their first demand to him was increase of Rs. 5/- in the wages for contract labour and the second demand was that a regular scale of pay should be given to casual labour. These were the only demands according to him and there was no demand about getting relief as recommended by the Second Pay Commission. The Principal Engineer says that he told the representatives that their first demand had already been recommended to the Government of India and the decision on that demand was expected any time. He also told them that so far as their second demand was concerned they were trying to have a revised strength of the mazdoors in each division fixed up so that they could fix a regular scale of pay for them. The Principal Engineer says that he advised the workers to go back to work but according to him they replied that unless their demands were fulfilled they would not go for work. They then left his room and joined the crowd outside. The Principal Engineer after meeting the workers reported about his meeting to the Chief Commissioner, Andaman and Nicobar Islands. According to him, the Chief Commissioner immediately called a meeting of the three Executive Engineers, Additional District Magistrate, and the Labour Welfare Officer. He says that after the meeting the Chief Commissioner advised the Labour Welfare Officer to go to the workers outside and persuade them to go back to work. He also instructed that officer to tell the workers outside that the stand of the Administration on their demands was exactly the same as was explained to their representatives by the Principal Engineer. According to him the Labour Welfare Officer went out to the workers and explained to them but they did not disperse. The Labour Welfare Officer also says so.

13. The Principal Engineer has also stated that at about 1.30 p.m. he wanted to go in his jeep for lunch but when he came out his jeep was surrounded by the workers. The workers did not allow him to proceed in spite of his repeated requests to them. He, therefore, returned to his office without going out.

14. The Additional District Magistrate, Shri J. S. Pande has continued the case of the Administration and stated before the Commission that the workers at first did not disperse at all but after great persuasion they left the Secretariat in batches at about 2.00 p.m. When he went home for his lunch he was informed at about 3.30 p.m. that the P.W.D. workers who struck work had assembled at Phoenix Bay godown and were obstructing and intimidating the Labour Force from loading the G.C.I. sheets. It appears that 40 Labour Force workers were detailed in the second shift to load these sheets. These sheets were meant to be loaded and carried away for distribution to the new settlers. According to the District Magistrate, Shri B. K. Halve, the G.C.I. sheets were urgently required for the settlers and were to be despatched immediately. Shri Pande, the Additional District Magistrate appealed to the workers not to intimidate the Labour Force workers but the workers expressed their determination to continue to obstruct. Shri Pande says further that he explained to the strikers that the G.C.I. sheets belonged to the Revenue Department and not to the P.W.D. and that these sheets are urgently required for the settlers. Shri Pande's further case is that he went and had a talk with the Labour Force workers who were separately sitting on the road near the electric pole and they told him that the P.W.D. workers were obstructing and threatening them. He wanted to give police protection to these Labour Force workers, but they were not ready because they expected trouble; thereafter they went home. The Additional District Magistrate and the Superintendent of Police then went to the Chief Commissioner and reported to him all that happened at the P.W.D. godown. According to Shri Pande he also told him that if the situation continued in the same way, it might be necessary to promulgate an order under section 144 Cr. P.C. Shri Pande says that the Chief Commissioner agreed to his assessment. Shri Pande and the Superintendent of Police again went to the P.W.D. godown at about 1.15 p.m. to make another effort to persuade the P.W.D. workers and ask them not to obstruct the Labour Force workers. According to them the strikers told them even at that time that under no circumstances they would permit the mazdoors to do the loading. Shri Pande says that after this he gave them a warning that if they behaved in this way it would be necessary to promulgate an order under section 144, Cr. P.C. to maintain law and order.

15. It appears that Shri B. K. Halve, the District Magistrate was not in Port Blair on 9th April, 1962 being out on tour to Nicobar Islands. He arrived at Port Blair at about 4.30 p.m. on the 9th April, 1962. After arrival he learnt about all these incidents of the day. He felt that he should go to the P.W.D. godown and see the strikers himself. He wanted also to assess the situation for himself. He, therefore, took one Shri Sohan Rangiah to the P.W.D. store who according to him had some contacts with the workers. He went there at about 6.30 p.m. He met the workers and explained to them the stand of the Administration with regard to their demands. He advised them not

to obstruct the Labour Force mazdoors but according to him they did not listen to him. Shri Halve says that the crowd at that time was a leaderless mob. He says that they told him at that time that they would not disperse unless both their demands were fulfilled by the Administration. He further says that they also informed him at that time that they would not allow any other workers to work until their demands were met. He had therefore no alternative but to return to the office of the Superintendent of Police. He gave his assessment of the situation to Shri J. S. Pande as well as to the Superintendent of Police. He told them that if the behaviour of the workers continued in the same way, he would have to promulgate an order under section 144 Cr.P.C. Having assessed the situation in this way he informed the Superintendent of Police to make the necessary bandobast on the next day so that they may meet any situation that might arise. He also reported about his assessment of the situation to the Chief Commissioner.

16. Incidents of 10th April, 1962.—On 10th April, 1962 at about 5.30 A.M. the District Magistrate Shri Halve went to the P.W.D. godown along with the Superintendent of Police. He found there, near the place about 200 strikers and they were still squatting. He was reported by the other officers there that these workers had continued to squat there during the night. The District Magistrate further says that he also learnt that the workers had planned to picket other P.W.D. offices and industrial establishments like Marine and Chatham. According to him they had also planned to prevent the other workers from doing their work. Hearing this news he and the Superintendent of Police went to Chatham and Marine but they found that the situation there was normal. They therefore returned to the P.W.D. godown at Phoenix Bay at about 6.00 A.M. The Administration had arranged for the loading of the G.C.I. sheets by the Andaman Labour Force that morning also. The Andaman Labour Force is a separate force primarily used for stevedoring. When the District Magistrate returned to the Phoenix Bay godown he found the number of strikers increased to about 600. After inquiry he learnt that the Labour Force had not reached their duty spot viz. the P.W.D. godown. About 40 of these workers were detailed to do the loading. He also learnt from his officers that these Labour Force workers had already arrived there before 6.00 A.M. but were prevented from reaching the godown by the P.W.D. workers who had assembled there. According to him, he was informed that the strikers obstructed and threatened those workers. He also learnt that the strikers threatened them also to assault. According to the District Magistrate, because the Labour Force workers were threatened and obstructed they could not proceed to the godown.

17. As he learnt that the Labour Force workers were threatened by the strikers, he instructed the Assistant Superintendent of Police Shri Bhagwat Singh to check up this information with the Labour Force workers themselves. The Superintendent of Police and Shri Bhagwat Singh went to the Labour Force workers but when they went there about 40 to 50 P.W.D. workers rushed that side. According to the District Magistrate the strikers at that time were shouting that they would not allow the Labour Force workers to go to work and beat them if they went. The Superintendent of Police and the Assistant Superintendent of Police attempted to persuade the P.W.D. workers but they did not listen to them. The District Magistrate himself attempted to go and talk to the Labour Force workers but he says that the P.W.D. workers rushed at him at that time. He attempted to reason with the strikers but in vain. All of them therefore returned to their original places on the road.

18. The District Magistrate has continued to say here that he did not feel it advisable at that time to arrest any of the workers who had rushed towards them or who had intimidated the Labour Force workers not to work. He says that after he had seen this situation he had decided to promulgate an order under section 144 Cr. P.C. He therefore promulgated it and handed a copy of the same to the S.H.O., Shri O. P. Arya of the Aberdeen Police Station. He ordered Shri Arya to publish it throughout the municipal area. The order promulgated was typed by him in the night between 9th and 10th April but was not signed. He signed it on 10th while promulgating. After the promulgation of this order, the contents of the order were explained both in Hindi and in Tamil to the workers who assembled there. They were asked also to disperse within 10 minutes and they were told that if they did not disperse the authorities would have to resort to force such as water jet, tear gas, cane charge and even firing, if necessary. The order was promulgated at 7.04 A.M. At 7.09 A.M. the strikers were again reminded that 5 minutes were over and that they should disperse. Another warning was also given after a lapse of 9 minutes. According to the District Magistrate, none of the workers was ready to disperse from that place and therefore he had to order the use of force for dispersing them. The strikers at that time were about 700. After the lapse of 10 minutes, water jets were thrown from a fire

tender at the strikers. According to the District Magistrate, about 40 to 50 P.W.D. workers left after the water jets were thrown on the crowd towards the cemetery side. But the rest of the crowd was still present. He has further stated that that section of the crowd, on whom water was thrown was drenched, but the crowd did not disperse at all. On the other hand, they merely turned their backs towards the water and some laid down on the ground. After the entire water was finished from the fire tender, the District Magistrate ordered for the throwing of tear-gas shells. In all 7 shells were thrown. According to the District Magistrate as well as other officers, tear gas had absolutely no effect on the crowd and the crowd did not at all disperse or move from the place. The case of the Administration is that the persons who were standing near the place where the tear gas shell exploded merely moved away a little from that place but did not disperse. Finding that the tear gas had no effect on the strikers, the District Magistrate asked the cane party to go into action. When the cane party had hardly gone into action, the case of the District Magistrate and other officers is that at that time the strikers started pelting stones and glass bottles on the police who were on the road. These missiles were also thrown on the members of the cane party. The District Magistrate at that time was on the main road leading to Delanipur along with the police force and other officers.

19. The District Magistrate explains that the road to Delanipur was also completely blocked by the P.W.D. workers and the whole area near the cemetery which is an elevated ground was also covered by the P.W.D. workers. The map of the site as well as the situation is drawn and that is attached with this report. The explanatory notes are also there. The District Magistrate says that the workers were more on the elevated ground than on the other side. The District Magistrate's further plea is that when the stone-throwing started he and the officers attempted to persuade the crowd to be peaceful. He found at this time that because of the stone throwing, several members of the police force were injured. He himself received two hits and the Superintendent of Police also received stone hits. When the District Magistrate was faced with this situation he asked the Assistant Superintendent of Police, Shri Bhagwat Singh to bring the firing squad in position. The District Magistrate says that when he saw the aggressive attitude of the mob he asked the Assistant Superintendent of Police to withdraw the cane party and also to warn the crowd that now the firing would be resorted to, unless they dispersed. He says that instead of dispersing, the crowd started advancing and also continued to throw stones. The crowd according to him was also violent. Therefore, he ordered Shri Bhagwat Singh to open fire. He did not, it appears, control the firing but left it to the discretion of Shri Bhagwat Singh. The firing party, therefore, according to the District Magistrate stood on the road in an arch and opened fire. There were 5 constables including one head constable at that time and each fired one round. The first firing, however, was done in the air. The District Magistrate says that this firing had no effect at all on the crowd and they did not disperse. Instead according to him they started advancing. They therefore, resorted to second effective firing. At this time, also each of the 5 constables fired effectively one round. The District Magistrate says that at this time he noticed two persons falling down on the road as a result of the bullet injuries. Those places are marked in the map. It appears that the officers, therefore, moved forward to pick up these injured persons. The District Magistrate says that the crowd did not allow them to pick up these injured persons. On the other hand according to Administration, they obstructed the removal of those persons from that place. According to the District Magistrate the crowd again started stone throwing. At that point of time some more reserve police force had arrived in a police truck there. The District Magistrate found that even the arrival of this reinforcement did not have any effect on the strikers and they did not disperse at all. The mood of the crowd was the same. Because of the stone throwing by the strikers on the police as well as on this truck, according to the Administration, the members of police in the truck were also hit. One A.S.I., Subadar Bhawani Dutt was also hurt on the face by a stone. Faced again with this situation, the District Magistrate ordered the Assistant Superintendent of Police, Shri Bhagwat Singh to open fire again. This time there were 7 police men in the firing squad and each of the police men had two rounds. Therefore, in all 24 rounds were fired in all the three firings. This had an effect on the crowd and the crowd dispersed.

20. The number of police men injured were 33 and the number of workers who were injured as a result of bullet injuries were 9 and 3 more died. The injury reports show that 4 workers were injured as a result of cane charging and 7 as a result of tear gassing. After the crowd dispersed the authorities took the injured persons which included the workers in an ambulance van to the hospital. They were treated there. The District Magistrate after going to the hospital contacted the Chief Commissioner of the Andaman and Nicobar Islands and acquainted him with all the inci-

dent that took place. He informed the Chief Commissioner also about the firing. It appears that the District Magistrate again visited some other places and was proceeding again to the Civil Hospital to see how the injured persons were. He found that two persons were very serious and one of them had died. The Superintendent of Police and the District Magistrate were thereafter returning to the Chief Commissioner's house. On the way, however, in the Aberdeen Bazar, near the Clock Tower both of them were alleged to have been mobbed. They were man-handled. The District Magistrate says that a person from the mob rescued him and escorted him to a near by private place. The Superintendent of Police also escaped to another private building. The District Magistrate thereafter went to the Government House and explained to the Chief Commissioner of all the incidents. This is therefore the story of the District Magistrate as well as the Administration of all the incidents that took place on 8th January 1962 and 9th and 10th April, 1962.

21. Workers groups and their cases.—The workers were divided into three groups as stated above. The first group consisted of the P.W.D. Workers' Union, the second group consisted of Andaman Sarvajanic Nirman Vibhag Mazdoor Sangh and the third group consisted of Andaman and Nicobar Labour Welfare Association. The Andaman and Nicobar Labour Welfare Association examined only their Secretary Shri M. M. Saklani. Shri Saklani says that the workers were assembled near the P.W.D. godown and the cemetery on the elevated ground and they were leaderless. He tried to intervene and persuade the workers. He asked them to see him at his house at about 11.00 A.M., because before that he had to go and see the Chief Commissioner of the Islands on the matter of the workers' demands. However, before he could do anything, the above said incident occurred. He was not at the site at all at the material time. He saw a small part of the incident from a place nearby. He says that he saw a person with a stone in his hand moving down the slope towards the main road and heard another person saying that the police were made to run away because of the stone throwing on them. According to his version a few seconds after this, he heard a volley of fire shots.

22. P.W.D. Workers Union's case and the strike on 8th January, 1962.—The case of the P.W.D. Workers' Union is that on 8th January, 1962 there was a strike by the P.W.D. workers and they went in a procession to the Secretariat on that day. Their representatives met the Principal Engineer as well as the Labour Commissioner, Shri B. K. Halve there. According to Shri K. R. Ganesh, Vice-President of the P.W.D. Workers' Union, there were three main demands among other demands of the workers. They were all placed before the Principal Engineer. The first demand according to him, was that the scales recommended by the Second Pay Commission were to be given to those who were already in the prescribed scale of pay. The second demand was that these workers who were uncategorised and who, according to him, the P.W.D. calls them casual, should also be brought on the regular establishment and given revised scales of pay. The third demand according to him was that all contract labour should be given an *ad hoc* grant of Rs. 5/- p.m. pending finalization of their wage scale on the basis of social justice. He as well as the other representatives present there, according to Shri Ganesh, persuaded the Principal Engineer to give them an assurance that a final decision on these demands should be taken within about 20 days. He says that they also persuaded him to announce this to the workers who had assembled in the Secretariat premises that day. Shri Ganesh says that the Principal Engineer came out of his office at that time and tried to announce to the workers the gist of their discussions but because of his low voice another representative announced it. It was also announced that the workers had to work on Sunday in lieu of the strike day. According to Shri Ganesh this assurance was not kept and in his opinion this was the cause of the strike on the 9th and 10th April, 1962. Shri Ganesh says that he and other leaders pressed the urgency of this matter on the Chief Commissioner as well as on the Ministry of Home Affairs several times and requested them to decide soon but in vain. Shri Ganesh's further complaint is that the revised scale of pay was granted on the basis of the Central Civil Service (Revised Pay) Rules, 1960 and these were applicable also to certain categories of P.W.D. workers—the categories of workers who were in the prescribed scale of pay. According to him, these P.W.D. workers ought to have been automatically granted revised scale of pay under these Rules; but the Administration did not do it. He cited some circulars and other documents to support his case.

23. Incidents of 9th April, 1962.—The case of the P.W.D. Workers' Union further is that some workers in the Islands had struck work on the 8th of April and they had come down to Port Blair. They all wanted to go in a procession on the 9th of April to the Secretariat for the purpose of representing their demands to the Principal Engineer as well as the Chief Commissioner. Accordingly, therefore, about 1000 to 1500 P.W.D. workers had gone in

a procession to the Secretariat on 9th of April at about 10 to 10.30 a.m. According to them they had no leader at all at that time. The Principal Engineer and other officers were in their offices. Their case is that because the Principal Engineer asked them to send certain representatives to him, therefore, some of the workers went to the Principal Engineer's Office. They had a talk with the Principal Engineer. According to them they had informed the Principal Engineer their demands which according to these workers, included also renews under the second Pay Commission's recommendations; another demand was for an *ad hoc* increase of Rs. 5/- in the wages of all the workers. According to few workers of this Union, the Principal Engineer and other officers told them that they had already written about their demands for an increase of Rs. 5/- to the Ministry of Home Affairs, Government of India. Their case, however, is that because the P.W.D. is a *katcha* Department, therefore they were told that they would not get that increase. According to some of them, the Principal Engineer told them that the grant of this increase, however, entirely vests with the Government of India. The representatives came out and told the workers outside what had happened between them and the Principal Engineer. The workers were therefore dissatisfied.

24. The Administration's case is that on 9th of April the strikers, who assembled in the Secretariat had obstructed the vehicles of the Government officers in the premises. The workers' say that they did not obstruct either the jeep or the motor-cycle of any officer. On the other hand their case is that one Shri Dhan Singh who had come on motor-cycle was driving fast and therefore they merely requested him to slow down because the workers were all over the premises in the Secretariat. It is further the case of these workers that they had not obstructed the jeep of the Principal Engineer but some of the workers wanted to learn from the Principal Engineer the stand of the Administration and they went to him merely to request and inform him of their demands. It is further alleged by the Administration that on 9th of April 1962 when the workers had assembled in the premises of the Secretariat they obstructed the jeep of one Shri Barpujari, an Agricultural Officer. The jeep was outside the garage on the road in the Secretariat compound and he got into the jeep and asked his driver to start it. He could not proceed because the strikers had surrounded the jeep. He was not allowed to proceed. He told them that he belonged to the Agricultural Department and not to the Public Works Department; but the strikers did not listen to him. The case of the workers however is that some of them went to jeep, thinking that that jeep was the jeep of the Principal Engineer and they went to request him about their demands. It is further their case that because they found this jeep of somebody else, they left the place. According to the workers, therefore, they were not at all violent on the 9th of April in the morning when they were in the premises of the Secretariat; that on the other hand they were peacefully asking for their demands. It appears that when they were dispersing at about 2 to 2.30 p.m. the workers learnt that the Administration are engaging the Andaman Labour Force workers to work in the P.W.D. godown in their place. According to them therefore some of them decided to go there and request the workers that they were their brothers and that they were fighting for their demands with the authorities and that therefore they requested them not to go for that work. Some of the workers therefore went to the P.W.D. godown at Phoenix Bay. They found at that time that the Labour Force workers had completed their first shift. The second shift had come. The case of the P.W.D. workers is that they earnestly requested them with folded hands not to work because their demands were not yet met. They further said that they had told them that those workers were getting all the reliefs whereas the P.W.D. workers were not getting those reliefs. According to the workers, the Labour Force workers had sympathised with them and therefore they voluntarily agreed not to do any work at the P.W.D. godown. They have examined some Labour Force workers who gave out the same story.

25. The case of the workers further is that some of the workers who had come from outside Port Blair had remained on the elevated ground near the cemetery near the P.W.D. stores because they had no other place to go for the night on 9th April. Some of them also stated that some of them wanted to remain there to request, if necessary, other Labour Force workers who may be engaged, not to work in the P.W.D. godown. Their case therefore is of peaceful picketing and not violent obstruction to the Labour Force workers that day.

26. Incidents of 10th April, 1962.—In so far as the incident of 10th April, 1962 is concerned, the case of the P.W.D. Workers' Union is that some workers had assembled there that morning. According to them the District Magistrate, the Superintendent of Police and other officers were present there at about 6.00 a.m. in the morning. Some Labour Force workers were also squatting aside. According to them

the officers went to the Labour Force workers asking them to go for work in the P.W.D. godown. The case of the P.W.D. workers is that at that time they merely showed their stomach to them and that they folded hands to them and requested them not to go for work because the authorities are not taking any decision on their demands. Their case further is that the Labour Force workers had sympathy for them and they voluntarily did not go for work. The officers therefore had to return. The workers have examined some Labour Force workers also who have stated that there was no violence done to them, that the P.W.D. workers were merely peacefully picketing and that therefore they had voluntarily decided not to go for work.

27. The case of the workers is that the District Magistrate had already made up his mind on the night of 9th April when he had drafted the order under section 144 Cr. P.C. in the office of the Superintendent of Police to be promulgated the next morning and that this he did for the purpose of dispersing the workers and forcing the Labour Force workers to go for work at the P.W.D. godown. Some of the workers had also stated that although there was promulgation and explanation of the order under section 144 Cr. P.C. at about 7.00 a.m. still 10 minutes' time was not given to them at all for dispersal. On the other hand the case of the workers is that without giving much time to them for dispersal the police force started throwing jets of water on them. According to the workers a few minutes after water was thrown the gas shells were also thrown on them. Many of the workers, according to them, were affected badly because of the gas. Their case is that they were running helter and skelter because their eyes were affected and before they had time to run away in these conditions, cane charging started. Firing also was opened. Both took place almost simultaneously.

28. One Srinivasan was hit by a bullet on the forehead on the elevated ground near the cemetery. One Kupanen began to run towards the burial ground when he saw the police using lathi for beating them and crossed the fence; he entered the burial ground. According to him, he got the bullet hit on his left leg there. He says that some policemen were chasing the workers and shooting them. One Armugum says that he received two lathi hits on his shoulders and therefore he ran away from that place and that he crossed the fencing of burial ground. He says that he was looking back while running and he received a bullet hit on his left cheek; he therefore fell down in the burial ground. One Krishnan who also received bullet injuries says that they were running towards the burial ground because of the gas shells and the police were chasing them with lathis. He says that he also got a bullet injury on the back of his thigh inside the cemetery. His eyes were also affected by the gas and therefore according to him he could not see properly. One Chalpat Rao was also affected by the gas. He says that he ran towards the cemetery and that when he was near the gate of this burial ground he stopped there and then wiped his eyes. When he was wiping his eyes the fire was opened. He got bullet wounds on the right as well as on the left hand. He lost his right hand little finger. The palm of his left hand was also damaged. He says that he fainted at that time and did not know what happened later.

29. Therefore according to the case of the P.W.D. Workers' Union although the District Magistrate had promulgated an order under section 144 Cr. P.C. yet they had hardly any time to disperse when firing was opened on them as a result of which many workers were injured, two died in hospital and one died almost after he was hit. According to the workers the deceased Perumal when hit by bullet was not on road, as is alleged by the Administration but was near the static tank on the mound near the cemetery. Similarly another deceased worker Sevagan, according to them, was not on road but on the mound.

30. It is further the case of the P.W.D. Workers' Union that the workers who had assembled on the 10th April, 1962 in the morning were only on the elevated ground near the cemetery and some of them near the Gandhi Road side. They had further pleaded that it is not true that as alleged by the Administration, the P.W.D. workers had blocked the main road leading to Delanipur. Their general case is that there was no stone throwing at all and the workers did not pelt stones on the police force after the cane charge had started. They plead that they had not committed any offence and therefore, they did not disperse from the place. According to them they would have left the place if only the authorities had assured them and gave them any time limit before which they could get a final reply about the settlement of their demands. Their further case is that the police were indiscriminately beating workers in their houses and outside on 11th April, 1962.

31. Andaman Sarvajanik Nirman Vibhag Mazdoor Sangh's case.—The Andaman Sarvajanik Nirman Vibhag Mazdoor Sangh had also examined 8 witnesses. Their case also is more or less the same as that of the P.W.D. Workers' Union.



The case of some of the workers of this Sangh also is that they saw some persons throwing stones from inside the burial ground and a few from amongst the police party might have been hit. This was only stated by these workers in their written statements and not in evidence.

## PART—II

### THE JURISDICTION OF THIS COMMISSION SOME PREFATORY PRINCIPLES RECAPITULATED

**32. Jurisdiction of the Commission.**—This Commission is appointed to enquire into and report on—

- (i) the circumstances under which the police resorted to firing on 10th April, 1962 at Phoenix Bay, Port Blair; and
- (ii) whether or not the said firing was justified and necessary.

A question was raised on behalf of the District Magistrate as well as the Andaman and Nicobar Administration about the jurisdiction of this Commission. This was with reference to the admissibility of certain facts and circumstances in evidence. The learned counsels for the Administration as well as for the workers argued before me on this point at the time of adducing evidence on certain facts. It is the case of the Administration that under section 3 of the Commissions of Inquiry Act, 1952 the appropriate Government appoints the Commission of Inquiry for the purpose of making an enquiry into any definite matter of public importance and or performing such functions as may be specified in the notification; that the Commission so appointed shall make enquiry and perform the functions accordingly. It was, therefore, argued that this Commission is appointed to inquire into a definite matter of public importance and this Commission should, therefore, strictly confine itself to the terms of reference which cover the definite matter of public importance. It was, therefore, argued by the learned counsel for the Administration that this Commission should confine itself only to the circumstances which impelled the police to open fire. On the other hand the learned counsel for the workers has pointed out that we should not only go into the circumstances which impelled the police to open fire on 10th April but also into pre-disposing or remote causes which led to the events on 9th and 10th April and which ultimately culminated into the opening of fire. It is true that this Commission should confine itself to the terms of reference; there is no doubt about that. But what are the terms of reference? The first term of reference is to inquire into and report on the circumstances under which the police resorted to firing on 10th April, 1962. Now what does this mean? It appears to me that the plain meaning of this term of reference is that this Commission should try to indicate what in its opinion were the pre-disposing or the remote causes and what were the proximate and immediate causes which led to the events on 9th and 10th April, 1962. It is true that in considering the first part of my term of reference we may not go into details of the remote causes. But in my opinion for the purpose of admitting in evidence certain facts and circumstances, even if they are remote causes of disturbance which ultimately resulted in the opening of fire should be admitted. I have therefore indicated in my order on the admissibility of two questions asked by workers that this Commission would try to indicate with reference to the first part of the terms of reference what in my opinion were the pre-disposing or remote causes and what the proximate and immediate causes which led to the events on the 9th and 10th April, 1962. I would, however, not consider the evidence bearing on this part of the terms of reference to be effective if it does not establish them. I would, therefore, refer to those facts and circumstances only which in my opinion are clearly established by the evidence on record. However, I must mention here that it would be difficult if not impossible to separate altogether opinion from facts in any inquiry of this kind. Where a particular fact or a circumstance leading to certain consequences is not an unmixt question of facts but also is a question in which the opinion of the person appreciating the fact, then that opinion has to be considered to some extent. In this context therefore I shall endeavour to indicate as clearly as possible what are facts and circumstances established by the evidence and what are the consequences in my opinion which flow from those facts and circumstances.

**33.** The second term of reference is whether or not the said firing was justified and necessary. While discussing this term of reference I shall deal with the three firings which took place on 10th April, 1962. I shall take each of the firing in chronological order and then consider the evidence with regard to its bearing on the question if the firing was justified and necessary. The learned counsel for the Administration has contended that the meaning of the words 'justification' and 'necessary' is the same. It is however difficult for me to agree with him, firstly because his view is contrary to the cannons of the interpretation *viz.* that two words when deliberately used in the terms of reference would mean differently. These two words are quite distinct and mean differently. There is no doubt that the two words were used

intentionally for different purposes. If that is so then the first and the most elementary rule of construction is that the two words are used in their different meaning. We cannot therefore depart and say that one word is superficial and the meaning of that word is the same as the other word. The dictionary meaning are as follows:—

"Necessity"—constraining power of circumstances, state of things compelling to certain course. Imperative need, indispensability.

"Justify"—showing the justice or rightness of, vindicate. Adduce adequate ground for.

The meaning of the two words in Osborn, the concise law dictionary is:

"Necessity"—The invasion of the private rights of others may be justified and defended on the grounds of necessity. Thus to destroy property in the path of a conflagration to halt it, or to enter on property and damage it in time of war may be justified as for the commonweal. Similarly, acts injurious to others may be done in the defence of a man's own property which is in imminent danger. Thus a farmer may shoot a savage dog which is attacking his sheep. The test is whether there was reasonable necessity for doing the act done in the circumstances existing at the time.

"Justification"—(1) The plea in defence of an action which admits the allegations of the plaintiff but pleads that they were justifiable or lawful. For example, in libel a plea of justification admits the publication of the defamatory words, but pleads that they are true in substance and in fact. (2) In procedure, bail or sureties for the defendant in an action were said to justify when they satisfied the plaintiff or the court that they were sufficient.

**34.** Therefore, evidently the two words mean different things and they are used intentionally. It may be that in certain set of circumstances the two words may mean almost the same thing; but in other set of circumstances, their literal meaning.

**35.** Therefore, it would be difficult for me to agree with the learned counsel when he argues that the word "justification" means "necessity" and "necessity" means "justification". Therefore, in so far as the second term of reference is concerned I would not interpret it in any narrow and legalistic manner. I shall consider each firing in all its aspects, *viz.* if initially the opening of firing was justified—whether it was justified by reason of the manner in which it was made or continued with reference to the number of rounds fired. I shall also consider whether the total number of rounds fired were justified or necessary; while appreciating this I will incidentally deal if the firing was controlled.

**36. Principles of law in such cases.**—It would be better if I mention here also the principles of law that would be applicable to the facts and the circumstances of the case in these proceedings. A reference was made to sections 127 and 128 of the Code of Criminal Procedure. Section 127 gives power to a Magistrate or an officer in charge of the police station to command any unlawful assembly or any assembly of five or more persons likely to cause disturbance of the public peace to disperse and this provision enjoins that it shall thereupon be the duty of the members of such assembly to disperse accordingly. Section 128 provides that if upon being so commanded any such assembly was not dispersed or if without being so commanded it conducts itself in such a manner as to show a determination not to disperse, any magistrate or officer in charge of the police station may proceed to disperse such assembly by force. There can be no doubt that either the District Magistrate or the Assistant Superintendent of Police who are the principal parties here in the matter of opening firing on the workers, have powers under these provisions. It must, however, be stated that these two sections do not imply that the moment an assembly is unlawful and shows a determination not to disperse, any amount of force is justified. The degree of force which may be lawfully used in the suppression of an unlawful assembly must depend upon the nature of such assembly and the force used must always be commensurate with the circumstances of each case and with the end to be achieved *viz.* the restoration of order. I might refer here for this purpose *Queen Empress versus Subbanaik* (I.L.R. 21 Madras 249). Their Lordships in this division bench have observed that the taking of life can only be justified by the necessity of protecting persons or property against various forms of violence or by necessity of dispersing a riotous crowd which is dangerous unless dispersed. In his reply to the arguments of the learned counsel for the Administration the learned counsel for the P.W.D. Workers' Union has also observed that resort to firing should be had only as the last resort and should not be resorted to at all unless life and property are imminently in danger. He, therefore, argued that firing should not be resorted to earlier because human lives are sacred. He has also invited my attention to Police Regulations (Bengal) Rule 153(C)(1) which indicates that an order

of firing upon a crowd should be regarded as an extreme measure to which the recourse would be had in the last resort when it is absolutely necessary for the defence of life or property or when a Magistrate considers it impossible to disperse a mob by any other means. This principle also is the same as that enumerated by their Lordships. I would, therefore, bear in mind these healthy principles as enunciated above.

37. In appreciating the evidence in the proceedings it is also to be borne in mind that all the principal witnesses are police witnesses or persons who are themselves concerned in the firing and are justifying their action and the possibility therefore may be that they are moved by a common cause, a sort of *esprit de corps*—which may colour their evidence. This will also equally apply to many of the P.W.D. workers' witnesses. At the same time the courts have frequently held that the law does not require that men suddenly called upon to defend themselves should weigh by arguments for and against a particular line of action, in golden scales. I may cite here *Niamat Khan versus Emperor* (1883 P.R. 70). His Lordship has observed that allowance must be made for the excitement of the moment and for the feelings which such excitement would endanger in the minds of persons placed in the position of those officers; that it is therefore quite possible that what may now appear to us, sitting in the serene atmosphere of a court of justice, to have been an insufficient cause for the exercise of such means of self-defence as were adopted by the officers, may yet have seemed to them at the moment to have been absolutely necessary for the purpose of self-defence. In the context of these observations, one has also to note that every person has a right under section 97 I.P.C. subject to the restrictions contained in section 99 to defend his own body and the body of any other person against any offence affecting the human body. Section 99 I.P.C. in so far as it is relevant provides that the right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence. The extent of the right is defined in sections 100 and 101. For our purposes it is sufficient to say that it extends to the causing of any harm, even death, to the assailant in the case of an assault which may reasonably cause the apprehension that death or grievous hurt will otherwise be the consequence of the assault and to the causing of any other harm than death in other cases. However, it is important to know that the exercise of the right to private defence is not made to depend on the actual existence of danger to life or danger of grievous hurt but on the existence of a reasonable apprehension of such danger. These are the legal principles which have therefore to be borne in mind while appreciating the evidence led with reference to the above said term of reference, when the Administration says that it had to open fire to defend the persons of police and other officers from workers who were overwhelming them.

38. It would be also instructive here to recapitulate some of the observations in the report of the Featherstone Riot Commission (cited in Maynes' Criminal Law page 99). The Commission has stated that the justification for the firing (by the troops in that case) depended on two conditions—

"Was what they did necessary and no more than was necessary to put a stop to or to prevent felonious crime? In doing it, did they exercise all ordinary skill and caution so as to do no more harm than could be reasonably avoided". Whether the firing is in self-defence or for suppression of a riot, the principle of using necessary force is the same. When the firing is in self-defence and not to suppress a riot it will be case of legal right and in the other case it will be a legal duty. The principles of law, however, in both the cases must be the same.

39. Now, therefore, I think law permits the use of fire arms if there is any personal danger. We have also seen that law permits the use of fire arms if necessary to disperse a riotous mob. Of course, no greater force than is necessary for the purpose of self-defence or for the purpose of suppressing the riot, having regard of course to the nature of the riot and the danger to be apprehended from it has to be used.

40. *How evidence will be appreciated.*—After mentioning the above said principles which I would bear in mind I would mention one more principle which I propose to follow. This would be for the purpose of appreciating the evidence of the witnesses. When witnesses give conflicting versions about a fact there is no surer way of reaching a right conclusion than first stating out facts which are admitted or proved beyond reasonable doubt and then seeing which of the stories best fit those facts. I shall follow this time honoured rule of practice derived from the collective wisdom of a succession of eminent judges of both England and India for well over a century. I shall try to tread the same path.

41. *Value of first informations.*—It is also necessary for me at this stage to say that a large number of first informations have been proved before me with regard to the several incidents which have taken place on the relevant dates. They

are admitted to show what the version of the first information was at the earliest stage. Most of these first informations have still to be investigated into. I have made every endeavour to restrict myself strictly to my terms of reference and have avoided as far as possible from expressing any final or concluded opinion with regard to the act of any person involved. I have merely considered these first informations for the limited purpose of finding out whether the events referred to therein have happened or not and if so what consequences they have had with regard to the incident of firing. This is the only limited purpose for which these informations have been considered. A few reports contemporaneous or otherwise given by certain officers to their superiors are also admitted before me. These would be considered also for a limited purpose of finding out what the statements of those persons were at the earliest opportunity.

42. I must also state here that I would make every endeavour to base the findings and conclusions on admissible evidence, i.e., evidence which is direct in nature and different from hearsay. Where the evidence contains some hearsay matter with regard to a particular incident I would try to exclude this hearsay matter unless the person from whom it was heard also corroborates such statement. Therefore such statements would be used either for corroborations or contradictions when the person from whom the statement is alleged to have been heard has been examined before this Commission. A number of matters which may be somewhat relevant or remotely relevant to the questions before me might have also crept into the records. In an inquiry like this it is not always easy to confine the parties strictly to the questions which arise for consideration. I must, however, state here that the counsels for either party have co-operated whole-heartedly in these proceedings by trying to bring on record only relevant matters as far as possible.

43. Lastly I must state that obviously it is impossible for me to refer to each and every witness or to all the written statements which are on record with reference to a particular point. If I were to do this the report would be rather lengthy and unwieldy and this would in that case nullify the very purpose for which it would be written. Therefore I shall make no attempt to refer to all the evidence on a particular point but shall confine myself to such important considerations as in my opinion settle the question at hand one way or the other. Of course, I shall also state the important reasons which have led me to a particular finding or conclusion. I shall attempt to combine accuracy with clarity and brevity.

### PART III

#### CERTAIN GENERAL FACTS AND CIRCUMSTANCES LEADING TO THE FIRING ON 10TH APRIL, 1962.

44. I propose to deal with the circumstances under which the police resorted to firing on 10th April, 1962 at Phoenix Bay, Port Blair, in this part. There are circumstances which are connected remotely with the disorder that took place on 10th April, 1962, and there are circumstances which are also proximate. I have decided that all these remote and proximate circumstances have to be considered under my first term of reference.

45. *Common grounds and Differences.*—In order to appreciate what these circumstances are, it would be useful to mention the common grounds of the Administration as well as the workers in so far as the story of the Administration is concerned. It would also be useful to know what the difference is in the story of the Administration and that of workers. It is common ground that there were two strikes—one on the 8th January, 1962, and the other on the 9th and 10th April 1962. It is further common ground that about 200 P.W.D. workers had gone in procession to the Secretariat at Port Blair in the morning of 8th January, 1962 and certain workers met the Principal Engineer, Shri S. N. Gupta in his office. It is further common ground that they had some discussions with the Principal Engineer and they came out after their talk. It is the case of the Administration that at that time there was only one demand for an increase of Rs. 5/- in the wages of the workers and no other demand. On the other hand the case of the workers is that there was not one demand but several demands. The first demand, according to the workers, was that the scales recommended by the Second Pay Commission were to be given to those who are already in the prescribed scale of pay [prescribed scale of pay means scale of pay prescribed under C.C.S. (Revised Pay) Rules, 1947 and hereinafter referred to as 'prescribed scales']. The second demand was that those workers who are uncategorised should also be brought on the regular establishment and given revised scales of pay. The third demand, according to the workers, was that all contract labour should be given an *ad hoc* increase of Rs. 5/- per mensem pending the finalisation of their wage scale. This is, therefore, the difference between the versions of Administration and workers on the point of the workers' demand on the 8th January 1962. The case of the workers, on the other hand, is also that the Principal Engineer on the day was persuaded to



give the workers an assurance that the final decision on these demands would be taken within about 20 days or before 31st of January, 1962, and that he also attempted to announce this to the workers who had assembled in the Secretariat outside. The Principal Engineer denies having given any such assurance to the workers on that day. On the other hand, according to the Principal Engineer, no time limit was given to the workers and that he did not promise them anything.

46. It is further common ground that on 9th April, 1962 in the morning a procession of a large number of workers about 1500 in number, came to the Secretariat building at Port Blair to meet the Principal Engineer; that all the workers went on strike from 8th April, 1962. It is further common ground that he did meet the workers' representatives in his office. According to the Principal Engineer on that day the first demand of the workers was for an increase of Rs. 5/- in the wages of contract labour and the second demand was that a regular scale of pay should be given to casual labour. According to the Administration these were the only two demands made by the representatives of workers on that day. On the other hand the case of the workers is that even on that day their demands included the demand of revision of pay scales according to the Second Pay Commission's recommendation and also an *ad hoc* increase of Rs. 5/- in the wages of all the workers. It is further the case of the workers that the Administration had considerably delayed in taking the decision on these demands and that the Administration could even have granted certain reliefs on the basis of the Central Civil Service (Revised Pay) Rules, 1960, because according to them under Schedule (B) of these Rules which were published by the Government of India on 25th November, 1960, the P.W.D. workers drawing pay in the prescribed scales were to be given the revised scale of pay. It is said that the Public Works Department did not send any proposal in response to the Memorandum dated 3rd February, 1962, forwarded by the Chief Commissioner to various departments of the Andaman and Nicobar Administration. Therefore, there is further this difference here between the Administration and the workers on the nature of demands by the workers and also on the time for decision on these demands. The case of the Administration is that it entirely rests with the Ministry of Home Affairs, Government of India and it is that Ministry alone that had to take a final decision on these demands and the Andamans and Nicobar Administration does not come into the picture at all. This delay, according to the workers, is one of the primary reasons, which led the workers to go on strike on 9th and 10th April, 1962. But according to the Administration, there was no delay at all.

47. The case of the Administration further is that when all these workers assembled on 9th of April, 1962 in the premises of the Secretariat at Port Blair, they were unruly and they were obstructing the vehicles of the officers who were moving out or inside the Secretariat; that the Principal Engineer wanted to leave for lunch in his jeep at about 1-30 P.M. and he was prevented by the workers and not allowed to go out. In the same way according to the Administration, other officers Shri Barpujari and Shri Dhan Singh were also obstructed while they were on their vehicles. On the other hand the case of the workers is that they were peaceful and that they were not obstructing any vehicles at all. The workers' further case is that Dhan Singh, a motorcyclist came there with speed and he had to slow down because there was a crowd all over. The case of the workers therefore, is that they had neither obstructed any officer when they were moving out in their transport vehicles nor they did any act to prevent anybody from moving out.

48. The case of the Administration is that they had employed some Labour Force Workers to load the G.C.I. sheets at the P.W.D. godown and remove them for the benefit of the settlers in the Islands; that the P.W.D. workers assembled there in the afternoon at about 3-30 P.M. and obstructed the L.F. workers and they were intimidated by the P.W.D. workers. The result was that these Labour Force workers could not do their duty. On the other hand the case of the workers is that actually this work of loading G.C.I. sheets belonged to them and that these L.F. workers were engaged by the Administration as back legs; that they were peacefully picketing there and peacefully requesting the L.F. workers not to do the work that had been assigned to them and that they were all workers and that they should help the P.W.D. workers in their demands. According to them there was neither any intimidation nor any obstruction by any of the P.W.D. workers. It is common ground that about 50 to 100 P.W.D. workers remained on the elevated ground near the P.W.D. godown during the whole of the night between the 9th and 10th of April, 1962. According to the Administration they stayed there for the purpose of preventing other L.F. workers to do the work in the P.W.D. godown and that they were there with a determination to prevent them from doing their duty. On the other hand the case of the workers is that they came to Port Blair from different parts of the Island and that they had no place to sleep in the night at Port Blair and that therefore they were sleeping there.

49. It is further common ground that some P.W.D. workers had assembled near the P.W.D. godown on 10th April, 1962. In the beginning there were about 150 workers who perhaps had slept there the previous night and later on they increased to about 600. They were squatting there. According to the Administration, the workers assembled not only on the elevated ground opposite the cemetery but they were also on the Gandhi road and had blocked the Delanipur road. This could be well appreciated by looking at the map of the site, attached to this report. That place is marked as AIGFICIAL. According to the workers they were all there only in the Government waste land No. 1349. It is further common ground that the L.F. workers were there on the Delanipur road side at the place PQAA1 marked in the map. These workers were engaged for the purpose of doing the loading work at the P.W.D. godown on 10th April. The case of the Administration, however, is that the P.W.D. workers were in an aggressive mood and were threatening the Labour Force workers not to go for work at all and if they went they would be beaten. It is further the case of the Administration that the Superintendent of Police and the Assistant Superintendent of Police had gone that morning to the Labour Force workers to find out why they were not going for work. But when they went that side, about 40 to 50 P.W.D. workers rushed towards them and were shouting that they would not allow the Labour Force workers to do the work. According to workers, however, all this is not true and that they were peacefully picketing the place and requesting the Labour Force workers not to go to work because that would unfavourably affect the decision of their demands.

50. The case of the Administration is that when the District Magistrate and the Superintendent of Police went to the spot near the P.W.D. godown on 10th morning, the D. M. learnt that the P.W.D. workers were going to picket other P.W.D. offices and industrial establishments like Marine and Chatham to prevent the workers there from doing work. The workers case, however, is that there was no such plan at all.

51. It is further the case of the workers that the District Magistrate had made up his mind to promulgate the order under section 144 Cr. P. C. in the night between 9th and 10th of April because he had drafted the order that night and, according to them, he signed it on the following morning on 10th April. On the other hand the case of the Administration is that the District Magistrate was on tour on 9th of April and he came down to Port Blair only that evening; that the District Magistrate himself went to see how and what the situation was and that he applied his mind on 10th morning; and only after coming to the conclusion that there was no other alternative but to promulgate an order under section 144 Cr. P. C., he promulgated the order a little before 7-04 A.M.

52. It is further common ground that the order under section 144 Cr.P.C. was promulgated at about 7-00 A.M. by the District Magistrate. The order was explained both in Hindi and in Tamil. The P.W.D. workers were asked to disperse within 10 minutes and if they did not disperse the authorities would have to use force, such as water, tear gas, cane charge and firing. The case of the Administration is that they did not disperse and therefore after a lapse of 10 minutes after the promulgation of the order they had to use first water, thereafter tear gas and afterwards cane charge. On the other hand the case of the workers is that they were not given time to disperse when water jet, tear gas and cane charging was started almost simultaneously and that before they had time to disperse due to the effects of the tear gas, firing was opened on them. According to the workers, they did not disperse because they had not committed any offence and that their demands were legitimate. It is common ground that there was firing. The case of the Administration is that firing had to be opened because there was stone throwing and that even bottles were thrown at the police, when the cane party had gone into action. The case of the workers, on the other hand, is that they were peaceful and that they neither threw any stones nor any glass bottles at all and that they were all the time peaceful and when they were peaceful, firing was opened on them.

53. The case of the Administration further is that in addition to the throwing of the stones and bottles, the crowd was advancing towards them and would have overwhelmed the police force as well as other officers who had gathered there, if they had not opened fire. Their case is that as a result of stone throwing a large number of police men were injured. According to them, therefore, the lives of the officers and the police force were in imminent danger and the District Magistrate had no other alternative but to order to open fire. On the other hand the case of the workers is that there was absolutely no necessity of opening fire as was done by the District Magistrate. According to them, considering the large number of workers who had gathered there they were absolutely non-violent and they were neither riotous nor unruly. It is argued that if there was any shouting it was the normal picture when 1500 workers assembled at a place for asking their particular demand. At

the most, according to the workers, the P.W.D. workers who had assembled there were an excited crowd asking for their demands. According to them, therefore, there was neither any justification for ordering firing nor any necessity to open firing.

54. The case of the Administration is that because the workers did not disperse as were ordered, therefore, the District Magistrate had no other alternative but to order their dispersal by use of force such as water jets, tear gas, cane charging and even firing because of necessity. According to the Administration these orders were explained to the workers in Hindi and in Tamil; and the Superintendent of Police and one other officer shouted to the crowd that the police would open fire on them and that they should disperse. On the other hand, the case of the workers is that they did not disperse from the place because they had not committed any offence and they were there present to ask for their legitimate demands. According to them there was no chance for them to disperse because the police had simultaneously started using water, tear gas and cane charging and had also opened fire. The workers' case is that their eyes were affected by tear gas and therefore they were running away helter-skelter. In this confusion before they had time to get away from the place, they say, the firing was opened. According to them, there was no warning also given to them before the firing was resorted to. Their case further is that they did not also throw stones or bottles at the police. However, the case of few other workers in their written statements is that some stones were found coming from inside the burial ground towards police. The case of the workers in general, therefore, is that they were peacefully picketing the place and there was neither any justification for the order to fire nor any necessity to open fire.

55. During these incidents, three workers were killed. They were Sarvaswari Perumal, Sevagan and Shanmugam. The case of the Administration is that S/s Perumal and Sevagan had fallen on the Delanipur road at point M & L marked on the sketch attached to this report. On the other hand, the case of the workers is that they were struck somewhere near the static tank which is shown also in the sketch; that they were not struck on the road; and that they did not also fall down there. The case of the workers further is that they would have left the place and dispersed if only the authorities had assured them and given them any time limit before which they could take a final decision on their demands.

56. *Incidents after the Firing on 10th and 11th April.*—Then there is evidence also of certain other incidents which took place after the firing on 10th April 1962 and also on 11th April 1962. The case of the Administration is that these incidents showed the determination of the P.W.D. workers on 9th and 10th April, before firing. It is alleged that the District Magistrate and the Superintendent of Police were man-handled on 10th April, 1962 in the Aberdeen Bazar; that they however escaped and went to a neighbouring building. The case of the workers however is that this conduct, even if true, had nothing to do with the conduct of the workers on the date of firing. According to them because of the firing and because of the death of a few workers and because some more workers were injured as a result of bullets, the workers and the other people were disturbed and that it was natural in the ordinary course of their conduct to be disturbed. According to them that is the reason that these incidents might have occurred. It is further the case of the workers that on 11th April, 1962 the authorities began to beat indiscriminately the workers in their houses and outside their houses and even at places in the bazar. According to the Administration this is not true. Therefore these are all the common grounds as well as all the differences between the case of the Administration and that of the workers.

#### *Some Circumstances and Causes of Disturbances*

57. *Demands of 8th January 1962.*—I will now take up the circumstance that led to the firing on 10th April, 1962 at Phoenix Bay, Port Blair. The first circumstance which could be connected with the disturbance on 10th April, 1962 and which is one of the causes are the demands of the workers and their strike on 8th January, 1962. The workers wanted to get more wages and other reliefs recommended by the Second Pay Commission and, therefore, according to them, they went in procession on that day to the Secretariat premises. The case of the workers is that on that day the Principal Engineer met the workers' representatives in his office and that he gave an assurance to them that the authorities would take a final decision on their demands within 20 days or at any rate before 31st January 1962. According to the workers, therefore, they dispersed. It is further evident that the workers were asked to work on Sunday in lieu of that strike day. The case of the workers is that they had to resort to this weapon viz. strike on 8th April, 1962, 9th April, 1962 and 10th April, 1962 because the authorities were sleeping over their demands and they did not fulfil the assurance given by the Principal Engineer. Now, therefore, we have to see what is the nature of the circumstance which led the workers to go on strike on 8th April, 1962 onwards. There is no doubt that there were some demands by the workers on 9th April, 1962 when they went in procession to the Principal Engineer. There-

fore, the whole disturbance that took place on 10th April, 1962 is as a result of their assembly near the P.W.D. Stores for the purpose of getting their demands fulfilled. In my opinion the strike on the 8th of January 1962 and their demands made on that day is a circumstance, though a remote one, which will have to be inquired into under my first term of reference. However, I do not think any purpose would be served by going into the intricacies of the demands and the interpretations of certain Government Rules produced on behalf of the workers or by going into the recommendations of the Second Pay Commission to see what their demands were.

58. Shri Ganesh has stated that there were three demands on that day. The first demand was that scales recommended by the Second Pay Commission were to be given to those who are already in the prescribed scale of pay. The second demand was that those workers who are uncategorised or casual, should be brought on the regular establishment and given revised scales of pay. The third demand was that all the contract labour should be given an *ad hoc* increase of Rs. 5/- pending finalisation of their wage scales. He has further stated that the revised scale of pay was granted on the basis of the Central Civil Service (Revised Pay) Rules, 1960, and that these rules are applicable to all the civil posts under the Central Government, except certain categories specially excluded. There is a Schedule of these rules. According to him when Part 'A' of this Schedule was published by the Government of India on 25th November, 1960, the P.W.D. workers already in the prescribed scales ought to have been given revised scale of pay as a matter of course immediately after publication of the above said rules. He has further stated that the Chief Commissioner of the Andaman and Nicobar Islands had sent a circular to all departments on 3rd February, 1962 forwarding a list of posts and inquiring from them that if there was any omission, the same should be brought to the notice of the Administration. He has referred to a Memorandum No. 24/27/60-Adm., dated the 3rd February, 1962. This is on record. Shri Ganesh complained that the other Departments had sent proposals but the P.W.D. did not send any proposal at all on this Memorandum. He, therefore, said if the P.W.D. workers' category No. 1 mentioned above, were to be included they could have been included in Part 'B' of the Schedule when scales of pay of other departments were revised. He, therefore, says that in that circumstance, the workers would have legitimately received their relief under these rules. His further complaint is that the Andaman and Nicobar Administration could have automatically given reliefs without any further sanction of the Government of India to some of the P.W.D. employees who were in the prescribed scale of Rs. 30-35. The other complaint is that according to the Government of India, Ministry of Finance Office Memorandum dated 10th February, 1961 the Ministry fixed Rs. 70/- plus Rs. 10/- for all casual employees who were not on regular establishment and therefore he says that the casual P.W.D. workers are entitled to Rs. 80/- from the date of the issue of this order. The workers' case is that this was not done and because the final decision on their demands was not taken soon, therefore, workers had no other alternative but to go on strike from 8th April, 1962 onwards; and that as a result of their demonstrations this firing incident had occurred.

59. On the other hand the P.E. says that there was only one demand and that was for an *ad hoc* increase of Rs. 5/-. The Administration have also filed one letter by the Principal Engineer dated the 8th January, 1962 which is on record. This is for the purpose of corroborating this fact deposed by the Principal Engineer. According to them, this demand of revised scales on the basis of 2nd Pay Commission is an afterthought. Shri S. N. Gupta, Principal Engineer resists the complaint of Shri K. R. Ganesh by stating that the P.W.D. workmen are either under muster roll or under work-charged establishments. According to him, the part 'A' of the above said Schedule refers only to persons who are on categories of posts on the regular establishment common to all or many Departments of the Government of India and not muster roll and work-charged establishment of P.W.D. in the Island. He therefore says that this schedule cannot apply to the P.W.D. workers. He has further stated that in May 1962, the P.W.D. workers who were on the work-charged establishment and who were getting a regular scale of pay had got some benefit. This he says is because of a reference by them to the Government of India to clarify whether the revised scale of pay is applicable to the Central P.W.D. and whether it could be extended to the Andaman P.W.D. workers also. This reference was with reference to the skilled labour such as carpenters, masons, turners, etc. It appears the Government of India had given a sanction now and therefore, the benefits were given to workers in May, 1962. In all, according to the Principal Engineer, 1133 workers got this relief. The total number of workers is more than 8600. It appears that even the Muster roll skilled workers were also brought on the work-charged establishment and given benefits. According to him there are also some workers getting time-scale pay and they are 200 in number. He says that those workers who are on the work charged establishment on 1st July, 1959 would be getting the benefit from that date. The labourers on muster roll who

are getting time-scale pay also would be treated to be borne on work charged establishments from 1st July, 1959.

60. There is some evidence on record that the P.W.D. workers were also demanding reliefs recommended by the Second Pay Commission. It is found in the Welfare Report for the quarter ending 31st March 1962 by Shri B. Puttappayya, Labour Welfare Officer, Port Blair. He has mentioned in his report that the industrial relationship between the Administration and the workers is not cordial; that the grievances are not settled promptly and the labourers are aggrieved over service conditions. According to this Report the labourers were complaining against the low wages and have been demanding rates of wages recommended by the Second Pay Commission and accepted by the Government of India. The Labour Welfare Officer also mentioned in his report to the Government of India, Ministry of Labour and Employment that the workers from two camps had given notices of strike with effect from 1st April, 1962 if wage increase is not effected by that time. The notices of strike are also on record.

61. Whatever may be the demands, according to the workers or the Administration, I am not by my terms of reference particularly concerned as to what exactly their demands were. But there is some difference between what the Administration says and what the workers say in the number and nature of demands. I do not propose however to give a finding and state as to what the true interpretation of the rules and Government orders is. I am not concerned also with the number of demands or their nature. In my opinion that is neither my jurisdiction nor it falls under my terms of reference. I have mentioned all these facts however for the purpose of showing a circumstance *viz.* certain demands by workers and their strike on 8th January, 1962 and their meeting with the Principal Engineer.

62. P. E.'s Assurance to workers.—The important point, however, is that the workers say that the Principal Engineer had given an assurance on 8th January, 1962 that a final decision would be taken on their demands within about 20 days or before 31st January 1962. According to the workers this promise of the Principal Engineer was not fulfilled. Therefore according to workers, they had gone on strike on 8th April, 1962. I have therefore to see whether any such assurance was given by the Principal Engineer. The Principal Engineer denies this. He says that no such assurance could have been given by him and that he did not give any such assurance.

63. Shri Kumaramangalam very rightly has argued that it is quite possible that the talk of the Principal Engineer with the workers on that day was understood in one way by the Principal Engineer himself and might have been understood in quite a different way by the P.W.D. workers. After all the talk was oral and therefore it may be quite possible that the workers understood that the Principal Engineer gave such an assurance. He however argues that the fact remains that there was a strike on 8th January 1962 and that they had made certain demands and that they were impatiently waiting after that date and that they became exasperated because of the considerable delay in handling the demands by the Administration. In my opinion that is a correct and proper appreciation of this circumstance.

64. However, it appears to me that no assurance could have been given by the Principal Engineer on that day. There is a letter which indicates this conclusion. This is a letter written to the Chief Commissioner by the Principal Engineer on the same day. He has mentioned in detail what all happened between him and the representatives of the P.W.D. workers. He has mentioned in this letter that he met the representatives and he also later on met the strikers as desired by their representatives, and assured them that the Administration had already been considering the question of increase in their wages and that the workers seemed to be more or less satisfied and that they agreed to go back to work; that some stray elements who had put forth additional demands for accommodation, increments, continuity of employment on return from long leave and the like had mentioned about their difficulties. There is no mention at all of any assurance given by him to the representatives of the workers as alleged by the workers here. This earliest statement is more reliable. Further, it is the case of the workers that the Principal Engineer came out of his office and tried to announce his assurance to the workers. The workers have examined Shri Ganesh and a few others on this point and it is stated by them that the Principal Engineer came out of his office and attempted to announce his assurance but because of his low voice other workers Shiv Ram, Yohannan and Karunakaran announced it to the workers in the presence of the Principal Engineer. I do not think this is quite a probable thing to do, because Shiv Ram has deposed that he himself took the megaphone and announced this to the workers. If the megaphone was there, there was no reason why the Principal Engineer could not himself announce this assurance to the workers. This circumstance also goes against the workers. Moreover it is difficult to believe that a responsible officer

like the Principal Engineer would go to the length of giving such an assurance to the workers when his case is that the matter does not vest with him at all but with the Government of India. It appears to me therefore that it would also not be a natural and probable conduct on the part of the Principal Engineer to give such an assurance, as is alleged by the workers, on that day. It is also significant to remember that none had complained by a letter or otherwise either to the Principal Engineer or to any other officer about this breach of promise by the Principal Engineer at any time.

65. Actually it appears from the documents filed by the Administration that on 4th January, 1960 a letter was issued by the Chief Commissioner to the Principal Engineer and to all other Executive Engineers requesting them to submit their recommendations about the revised scales of pay for the staff borne on the work charged establishment. The last reply received from the Executive Engineer (Development Division) was on 26th June, 1960. After examination of all these material recommendations, the matter was referred to the Government of India on 16th September 1960. The Government of India was reminded on 6th October, 1960, 11th February, 1961, 10th March, 1961 and a reply was received from the Ministry of Home Affairs on 21st March, 1961 stating that the matter was under consideration. Then on 13th April 1961 the Government of India sent a reply that it is proposed to include all classes of posts under Part 'B' of Schedule to C.C.S. (Revised Pay) Rules, 1960, and that a list of posts and the existing scales, etc. were to be furnished to them. Correspondence then went on between the Andaman and Nicobar Administration and the Ministry of Home Affairs and final recommendations were made by the Andaman and Nicobar Administration to the Government of India on 3rd November 1961. There is further correspondence on record between the Andaman Administration and the Government of India till 13th June, 1962 with no results. Therefore in the background of this correspondence, I do not think, the Principal Engineer could have given any assurance to the workers on 8th January, 1962 as alleged by the workers. This circumstance showing a breach of promise by the Principal Engineer therefore cannot be said to have been proved by the workers.

66. Question of Delay by the Administration.—Was there any delay in the decision of demands on the part of the Administration on 9th April, 1962 when the P.W.D. workers again took up cudgels for their demands? Actually the demands had been made by the workers on 8th January, 1962; could the period 8th January, 1962 to 9th of April 1962 be said to be a period long enough to make the workers impatient? In the background of the assurance given by the Principal Engineer perhaps this period could be considered a long one. But as I have observed above the P.E. could not have given any assurance at all. If that is so then I doubt whether in the common parlance of the Secretariat machinery this period could be said to be long enough to make the workers impatient. In fact, it appears that the matter had been initiated by the Andaman and Nicobar Administration in respect of certain demands on 16th September, 1960. It appears the Government of India had not decided the matter until 21st May 1962. Therefore, with the top heavy Secretariat machinery of the Government of India such a long period was taken in their ordinary course. With this background could three months be said to be a period which should make the workers impatient? It appears to me that this is not long enough period to make the workers impatient.

67. Chief Commissioner's information to Shri Ganesh at Delhi.—It is further suggested that the Chief Commissioner of the Andaman and Nicobar Administration also met Shri Ganesh at Delhi on the 6th March 1962 and that he had informed him that he had just come from the meeting in the Finance Ministry and that the Ministry had accepted in principle the recommendations of the Andaman Administration to grant an *ad hoc* increase of Rs. 5/- to all the contract and casual labourers. It is argued that although this was accepted as early as in March 1962, the Administration had not expedited the grant of the reliefs to the P.W.D. workers. Now actually even granting what Shri Ganesh says is true, the C.C. merely stated that the Finance Ministry had accepted in principle certain recommendations of reliefs made by the Administration. It does not authorise the Administration to grant any reliefs to the P.W.D. workers. Besides, the word of Shri Ganesh, there is nothing on record to show that the Chief Commissioner had promised Shri Ganesh at Delhi the grant of these reliefs to the P.W.D. workers because it had been accepted by the Ministry of Finance. It appears that a letter was sent by Shri Ganesh through Shri Ratnam to one Shri Shiv Ram. Both Shri Ratnam and Shri Shiv Ram were examined but that letter was not produced. Moreover, it is common ground that the Chief Commissioner after return from Delhi gave an interview to the Press at the airport, Port Blair. He mentioned many things but he did not mention this particular fact of the Finance Ministry's accepting the recommendations of the Andaman and Nicobar Administration in respect of the P.W.D. workers. Shri Ratnam also had given a statement to the press which is on record and

Shri Katnam admits that he did give such a statement in the month of May and that he neither mentioned about the breach of assurance by the Principal Engineer nor about the talk which the Chief Commissioner had at Deem with Shri Ganesh that the Finance Ministry had agreed in principle the recommendations made by the Administration. Shri Katnam also admits that the Chief Commissioner in his press conference although mentioned about other sanctions granted by the Government of India did not mention anything about this *ad hoc* increase of Rs. 5/- to all the workers of the Andaman P.W.D. There is therefore no question of their demands being accepted by the Ministry of Finance, Government of India at all and the Andaman and Nicobar Administration granting the demands after that.

68. **Strike of workers on 8th April 1962.**—Then we come to the next circumstance about the strike without notice by the P.W.D. workers on 8th April 1962 and onwards. There are however 2 notices on record of two groups of workers served on Administration. This is a circumstance which is not as remote as that mentioned above but is intimately connected with the police firing on 10th April 1962. The case of the workers is that several workers all over the island had come to Port Blair after the strike. Some jungle workers were also there according to the workers. Their case is that because they had already presented their demands to the Administration and because the Administration was sleeping over their demands therefore they had struck work on that day. These workers according to many of the P.W.D. workers examined here, had come to Port Blair and met most of the P.W.D. workers there. The case of the P.W.D. workers' witnesses therefore is that because these workers had come to Port Blair and wanted to go in a procession to the Secretariat, therefore they also left their work and joined the procession. A point was raised by the learned counsel of the Administration that the strike was illegal because no notice was given. On the other hand one P.W.D. fitter P. Mohammad has stated that the Farrarganj workers had given notice but he did not know about the others. I must however once more state here that this Commission has no reason to go into the legality or illegality of the alleged strike which took place on 8th and 9th April 1962. We are merely concerned with certain incidents which took place on 9th April, 1962 when a procession of the workers went to the office of the Principal Engineer in the Secretariat premises. It appears that the workers thereafter had assembled in the premises of the Secretariat for representing their grievances.

69. **Workers' Procession on 9th April 1962.**—It is common ground that the workers on 9th April, 1962 were without any leader. The workers representatives wanted to meet the Principal Engineer. The Principal Engineer says that the procession was about 1500 in number and that they had assembled and blocked the entire premises in Secretariat as well as the road for the traffic. The Principal Engineer met them and asked them as to why they had assembled there and also inquired of them as to why they stopped their work without notice. Everybody began to talk to him. He therefore could not make out what actually they were talking. He then requested them to talk one at a time. That did not happen. Therefore he told the workers there, to send their representatives to his office so that he could find out what their grievances are. At that time, it appears, that the workers told him that they had no leader. The Principal Engineer therefore asked them to give him in writing their demands. The workers according to him told him that they were uneducated and therefore they could not give anything in writing. He had therefore no alternative but to go back to his office after requesting the workers to send their representatives. It appears that after a while some representatives came to his office and met them. He said that they had referred to their first demand i.e. for increase of Rs. 5/- in the wages of the contract labour and that he told them that the matter is referred to the Government of India with the recommendation and that the decision was expected at any time. About their second demand that a regular scale of pay should be given to the casual labour, he mentioned to them that a revised strength of the mazdoors in each division had to be fixed up first and then the required persons would be taken in regular scale of pay. He therefore advised them to go back to the work but according to the Principal Engineer the representatives replied that unless their demands were fulfilled immediately, they would not go for work. Then they left his room and joined the workers outside. On the other hand the workers have given evidence here that the Principal Engineer had replied to them that they would not get any relief under the Pay Commission and that they would not get any increase of Rs. 5/-. According to one witness Muthuswamy Arumugam, they then decided to see the Chief Commissioner but according to the workers he did not come and meet them, that on the other hand the Additional District Magistrate, Mr. Pandey, met them. He told them that he would look into their grievances and therefore asked them not to make noise. Muthuswamy further stated that he also told them that they would write to Delhi about their demands and later on inform them. But according to Muthuswamy

they stated at that time that they wanted a definite reply to their demands. Mr. Pandey then, according to him, went back to meet the Chief Commissioner and then came back and told them that the P.W.D. is a kitchen department and therefore they could not get any reliefs. The workers were therefore frustrated and dissatisfied. They were in this condition of mind moving in the Secretariat premises.

70. **Obstruction of vehicles by workers.**—There is another circumstance intimately connected with the above said circumstance. The case of the Administration is that the workers at that time were aggressive and were obstructing the officers' vehicles. It is in evidence that the P.W.D. workers had obstructed Barpujari's jeep at about 11 A.M. and also obstructed the motor cycle of Section Officer Dhan Singh at about 11-10 A.M. and also surrounded the jeep of the Principal Engineer at about 2 P.M. The point therefore that I will have now to consider is whether the workers at that time had obstructed any of the officers' vehicles. This point is important because according to the Administration this disorderly conduct of the workers continued even on 10th April 1962 and it is this conduct which led them to be disorderly as a result of which firing had to be opened. It appears that when the workers were in the premises it is alleged that they had obstructed a motor cycle of one Section Officer Shri Dhan Singh and overturned it. It is further alleged that they had also obstructed the jeep of an Agricultural Officer Mr. Barpujari. It is also alleged that the workers had obstructed the outgoing jeep of the Principal Engineer in the premises of the Secretariat and that he could get out only after the intervention of the police. Is this true? It is argued by the learned counsel for the Labour that the Administration has not examined the S.O. Dhan Singh and therefore it cannot be said that there is direct evidence to show that his motor cycle was obstructed. But the learned counsel for the Administration invites my attention to several witnesses who had themselves seen this incident. There is the evidence of A.D.M. Shri J. S. Pandey and Shri P. S. Narsimahachar S.P., Bhagwat Singh, A.S.P., V. Krishnaswamy, R. I., Bhakhtawar Singh, C.I. and Shri O. P. Arya, S.H.O. All these officers were present in the compound at that time. All these witnesses deposed to this fact of Shri Dhan Singh being obstructed. Therefore this evidence is also of eye-witnesses. In so far as the case of the P.E. is concerned, the P.E. himself has asserted this fact. He says that when he got inside his jeep at 1-30 P.M. the workers surrounded his jeep and did not allow him to proceed in spite of his repeated requests and that he went out only with the help of the police. He is corroborated by other Administration's witnesses. In so far as the incident of Barpujari's jeep is concerned, there is the evidence of A.S.P. Bhagwat Singh, C.I. Bhakhtawar Singh, S.H.O. Arya and Barpujari himself. On the other hand the case of the workers is that they had not obstructed any officer at all. One of the workers, P. Mohammad, has stated that Dhan Singh had driven his motor cycle fast although there was a big crowd inside the compound and it touched the crowd and therefore the workers told him to slow down the motor cycle. One of the workers' witness has also stated that they went to the other jeep thinking that the officer is the Principal Engineer. According to him the workers at large wanted to request the Principal Engineer to consider their demands favourably.

71. Now the point really is whether it is probable that such obstruction to vehicles had taken place. Admittedly a big crowd of 1500 was there and they were all over the place. When the workers assembled for the purpose of getting their demands, normally one would expect them to be, at any rate, excited. Therefore although there is conflicting version of witnesses on behalf of the Administration and witnesses on behalf of the workers it appears to me that the story of the Administration best fits in with the background of the mood of the crowd at that time. Is it or is it not possible for the workers, who had no leader to guide them in the premises, to obstruct the vehicles of any officer trying to go out or coming in the premises. The transport vehicles, when taken are bound to go past through the crowd because the crowd was all over. It was quite probable and natural that these workers would try to obstruct the vehicles. It is nobody's case that the workers had physically handled either the P.E. or Barpujari or Dhan Singh. It is alleged by the Administration, that the workers had obstructed their passage and in the case of Dhan Singh his motor-cycle was overturned. It appears to me that in view of the many circumstances under which the workers assembled there is more probability of the workers trying to obstruct these vehicles from moving in the crowd. This conclusion also fits in with the fact that the crowd was all over the place and that the transport vehicles had to pass through the crowd and that the mood of the crowd in all probability was in that way. This fact fits in with other admitted facts. I am therefore led to conclude that the workers must have obstructed the vehicles of all these three officers as alleged by the Administration.

72. **Obstruction by workers to L.F. workers.**—There is another circumstance which could come within the purview of my first term of reference and that is about the alleged obstruction caused by the workers to the Andaman Labour Force workers at the P.W.D. Store in the afternoon that day.

The case of the Administration is that the P.W.D. workers were persuaded to leave the premises at about 2 to 2-30 p.m. that day. According to Shri Pandey, A.D.M., however, the crowd went away in an angry mood abusing the officers. When they were leaving the premises, they learnt that the Administration had engaged the labour force mazdoors at the P.W.D. store to load the G.C.I. sheets. According to the workers they got an impression that the Administration are engaging black-legs to smash their demands and therefore they went that side for peaceful picketing there. The case of the Administration is that the workers who had gone to the P.W.D. store had obstructed and threatened the A.L.F. workers and prevented them from loading the G.C.I. sheets into trucks. According to the Administration the workers were told that these G.C.I. sheets were urgently required for the settlers and had to be despatched immediately. It is further the case of the Administration that the workers were told that these sheets did not belong to the P.W.D. but belonged to the Revenue Department. The officers, therefore, told the P.W.D. workers who had assembled there not to obstruct and prevent the labour force workers from doing that work. On the other hand the case of the workers is that some of the workers went there to tell the A.L.F. workers who were their brother labourers that they should not do the work and that by so doing they would impair the progress of the final decision of their demands. According to them because they had peacefully picketed at the place therefore the A.L.F. workers were favourably influenced and informed the officers there, that they would not go for work. The point therefore that I will have to consider is whether the P.W.D. workers who had gathered there at that time had really prevented the A.L.F. workers from doing their legitimate duties.

73. It would be better to look into the evidence also for this purpose. Shri K. Balu, Controller of the Andaman Labour Force, deposes here that on 7th April, 1962 he got an indent from the Deputy Commissioner for supplying 40 labourers for loading the G.C.I. sheets from the P.W.D. godown at Phoenix Bay and that the sheets were to be carried to Chatham Jetty. The indent is on record. He therefore arranged 40 mazdoors to start the work from 8th April, 1962 which was Sunday. The working time was from 6 a.m. to 2 p.m. According to him these labourers loaded the sheets on 8th April, 1962 and they had to continue the work on Monday the 9th April, 1962. The Controller arranged for two shifts one from 6 a.m. to 2 p.m. and the other from 2 p.m. to 10 a.m. The A.L.F. workers were detailed on the 9th April, also from 6 a.m. to 2 p.m. It appears that they loaded about 30 tons of cargo. Forty A.L.F. workers plus two head workers were detailed for the second shift. There is the list of all these workers on record. Shri Hardayal, Overseer, was in charge of the workers in the second shift. Now evidently, therefore 40 A.L.F. workers were arranged to work in the second shift from 2 p.m. to 10 p.m. on 9th April, 1962. The Controller says that at about 2-40 p.m. the overseer Hardayal came to him and reported to him that the mazdoors who were detailed had been obstructed. Let us, therefore, see what Hardayal says. Hardayal says that when they were there, about 500 to 600 P.W.D. workers gathered there and prevented them from work. They asked them not to do work. They told them that they had gone on strike and that if they started working they would start fighting with them. Hardayal says that he told the P.W.D. workers that this is not the P.W.D. work but the work for the new settlers and that the G.C.I. sheets were to go for the settlers. But, according to Hardayal, the P.W.D. workers did not listen to him. Hardayal, says that they told him that they would not allow the A.L.F. workers to work in the P.W.D. store. They threatened all of them. They therefore had to wait till 2-20 p.m. This therefore is the version of this witness corroborating the evidence of the Controller. The Controller also says that Hardayal reported to him this way. This is about the incident between 2 and 2-30 p.m. There is other evidence also led by the Administration on this point. There is another incident on that day. This is the incident at about 4-50 p.m. The Controller deposed that he accompanied the ASP Bhagwat Singh at the work spot and saw about 500 to 600 workers collected there. The A.L.F. workers were also present. They informed him that they were being obstructed from entering the P.W.D. store by the mob collected there. They told him that they were being threatened with worst consequences if they entered the stores. This is the evidence which could be said to be hearsay because the witness did not himself see. It appears however from the evidence on record that the A.L.F. workers continued to be there till that time and that they reported the matter of their being obstructed by the P.W.D. workers. Hardayal has also stated that S.H.O. Arya came there and told the workers not to obstruct. S.H.O. Arya also corroborates this point. Shri Arya says that he reached the P.W.D. store at about 2-10 p.m. and he saw about 300 to 400 strikers who had blocked the approach road towards the godown, that they had surrounded a truck there and that he saw one Venkatesan standing near the truck. When he went there he told the P.W.D. mazdoors that they should allow the A.L.F. workers to load the G.C.I. sheets in trucks for shipment to North Andamans. According to him, however, they did not listen. He has further stated that

about at that time some mazdoors were going into the gate of the P.W.D. store and that he asked them as to why they were going that side. These workers told him that they would not allow the watchman there to work. When he told them to come back, the mazdoors came back. It appears that the police people then cleared the mazdoors from that point. He however admits that in his presence the P.W.D. workers did not have any talk with the A.L.F. workers. He also says that the Controller Balu and S. P. came there at about that time and tried to persuade the workers not to prevent the A.L.F. workers from doing their duty.

74. Now admittedly there was no physical obstruction as such in the evening and also in the morning. The case of the Administration is that they were threatening the A.L.F. workers with dire consequences. The workers had, however, stated that they were peacefully picketing the place. This is the case of the P.W.D. mason Muthuswamy, P.W.D. fitter P. Mohammad, P.W.D. cleaner Abdul Rahim and many other labour witnesses. Now, therefore, the point is whether the P.W.D. workers who had gathered there had obstructed the A.L.F. workers from doing the work. It must be stated here that the workers have examined the A.L.F. workers also to support their case. The Administration could not get any A.L.F. worker to corroborate their case. The workers have examined one N. Ramachandran, who was detailed for the loading work on 9th April, 1962 at 2 p.m. He says that the P.W.D. workers who came there were all very peaceful and did not threaten them at all. According to him they merely told them that the P.W.D. workers had gone on strike and therefore they cannot go to work in their place. According to this witness the A.L.F. workers did not go for work to the P.W.D. stores but were ready to go for work anywhere else. The ADM also, according to this witness, came and persuaded them but they replied to him in the same way. Therefore the A.L.F. workers also support the workers. Now this witness admits that he took the salary of 9th April, as well as of 10th April 1962; it is true that he was also selected in one of the batches for the work on 9th April, 1962. Now the point therefore, is whether it is probable or it is not probable for these 300/400 workers to prevent the 40 A.L.F. workers from doing their work. It is the case of the workers that the work at the P.W.D. godown is invariably done by the P.W.D. workers. It appears therefore that the workers' case is that these A.L.F. workers were doing their work and therefore they wanted to request them not to work. On the other hand the case of the Administration is that the P.W.D. had no concern whatsoever with this work of loading the G.C.I. sheets in trucks by the A.L.F. workers because the G.C.I. sheets belonged to the Revenue Department. This point was not clear because of the conflicting evidence of the Administration as well as the labour. Therefore this Commission had examined the P.W.D. storekeeper Shri R. P. Sharma, to clear up certain points. He has stated that they issue the materials only to the P.W.D. Therefore other departments had to bring in their own labour. He has also stated that they did not keep any goods belonging to any other departments. The other departments have however to place indents with the P.W.D. and thereafter they supply them goods. He has stated that the A.L.F. workers were employed by other departments also to remove the indented goods. He says that the G.C.I. sheets belonged to the P.W.D. but the Tehsildar place an indent for some of the G.C.I. sheets to the P.W.D. The indent is on record. The P.W.D. also agreed to give the Tehsildar the indented G.C.I. sheets. It is mentioned in the document filed by this witness that the G.C.I. sheets are kept reserved in their godown till delivery is taken from that godown. This receipt which was given to the Revenue Department was however valid for a period of one month. The receipt is however not dated. Therefore all this evidence shows that the Revenue Department merely indented certain G.C.I. sheets from the P.W.D. godown and it certainly cannot be the property of the Revenue Department. Witness Sharma also says so. However, it appears that the Revenue authorities had indented for a certain purpose these sheets and they were removing these indented goods on 9th April. This witness Sharma says that on 8th April, 1962 which was Sunday he handed over some goods to the Revenue Department and that 40 A.L.F. workers had removed them. He has however stated that this is the first time that the Revenue Department had indented the G.C.I. sheets from their P.W.D. store and that before this they had never indented at all. Now therefore it appears that this is the first time that the Revenue authorities had indented for the first time and that it is therefore neither strange nor improbable if the P.W.D. workers suspected about this removal of the G.C.I. sheets when they were told that they are only meant for the purposes of the Revenue Department. This storekeeper Sharma has also submitted in his cross-examination that if the sheets are taken by the P.W.D. as is always the case that the P.W.D. workers themselves measure the sheets and do the other odd jobs and remove them. It may be therefore that these P.W.D. workers were honestly thinking that this was the P.W.D. workers' job and that the A.L.F. workers had no business to go and do their duties. No wonder therefore that they went there with the purpose of seeing, that their work was not done by the A.L.F. workers.



75. The case of the Administration is that this work was of the Revenue Department and the P.W.D. workers could not be in the picture at all. According to them the goods belonged to the Revenue Department. That does not appear to be so. The goods were merely indented and that too for the first time, by the Revenue Department. With this background therefore it is very natural and very probable for the P.W.D. workers who always do the loading to think that Andaman Labour Force workers were black-legs. P.W.D. workers would have thought that they are the persons who should be doing that work at that time. I am therefore of the opinion that the P.W.D. workers must have quite naturally gathered this impression there. What would be their reaction when they had gathered there with this understanding? They thought that the work was theirs and the Administration was trying to smash up their strike by engaging the Andaman Labour Force workers. The workers and one of the Andaman Labour Force workers have stated here that the P.W.D. workers had merely requested them not to work. It is not the case of the Administration also that there was any physical violence or physical obstruction by the P.W.D. workers to the Andaman Labour Force workers. The case of the Administration merely is that they were threatening the Andaman Labour Force workers not to work. Is this true? Is this probable? When three to four hundred workers assemble, what will they do? They would act in the way as alleged by the Administration. In my opinion if peaceful picketing was to be done it could have been done, by few workers. It was not necessary for 300 to 400 workers to gather there. When 300 to 400 workers gather there, the probable conclusion would be, that they would be at any rate an excited crowd. They would also most probably threaten the 10 Andaman Labour Force workers not to do the work. Admittedly the Andaman Labour Force workers had arrived on the work spot along with Hardayal and other head worker. If they arrived there they came there to do their duty. If they did not do their duty, it may be that either they were influenced by the peaceful picketing or it may be that they were prevented from doing the work because of the threats by the P.W.D. workers. The fact that as large a number as 300 to 400 gathered there and the fact that they thought that the Andaman Labour Force workers are black-legs, show that they in all probability must have threatened the Andaman Labour Force workers and prevented them from doing their duty. This is more probably true because all these workers had left the Secretariat on receipt of a report and had straight gone to the P.W.D. godown from that place. Why did they go? Moreover it should be remembered that no leader at all was with them who could channelise their excitement and discontentment in a proper manner. In this background this story of the Administration, in my opinion, will best fit in with the admitted facts and therefore I shall have no reason to disbelieve the Administration witnesses on this part of the story. It appears to me therefore that the obstruction by the P.W.D. workers to the Andaman Labour Force workers near the P.W.D. store on 9th April, 1962 at about 2-00 p.m. must have taken place.

76. The above is one circumstance which led the District Magistrate to issue an order under section 144 Cr. P.C.

77. **Fear of other establishments being picketed.**—There is one more circumstance which it is said, has influenced the District Magistrate to issue the order under section 144 Cr. P.C. That circumstance is this. The District Magistrate after he arrived on the work spot in the morning of 10th April 1962 got an information from an informant that there was a talk amongst the P.W.D. workers during the night that they would picket the P.W.D. offices and the other industrial establishments like Marine and Chatham and prevent their workers from doing the work. It is argued that there was a danger of these industrial establishments being picketed and therefore there was all the more justification and necessity for issuing an order under section 144 Cr. P.C. It is significant to remember that there is no mention whatsoever of this danger of picketing by the P.W.D. workers to other industrial establishments in the order under section 144 Cr. P.C. This information appears to be on the basis of the information given by Head Constable P. Venkatesan of the Special Branch. He has given the evidence that he was in plain clothes on duty on the night between 9th April, 1962 and 10th April, 1962 at Phoenix Bay godown and that some labourers from amongst those who were sitting opposite the Phoenix Bay godown and who were going to and from Aberdeen bazar were talking and the talk was that on the 10th April, morning they would prevent the workers from doing their duty in all the P.W.D. offices as well as in the Marine and Chatham establishments. The talk was that on the following day at 7-00 A.M. they would convene a meeting and from there they would go to the Secretariat in a big procession. His report is also on record. Although therefore this is a report which is given to the District Magistrate, the District Magistrate checked it up by going to other establishments. He found that everything was normal there. The Superintendent of Police also accompanied him. They went to all these different places and found the situation normal. This was after 5-30 A.M. Now the point really is whether there was any plan by the workers to picket or prevent the other workers from doing their duty on the next day. Examining

the evidence of Shri P. Venkatesan, he did not give the names of any workers who had such a talk. This witness Venkatesan has not only given this information but he has also stated that they had also talked that they would obstruct the officers' vehicles from going to the Secretariat. It should be stated here that he has not mentioned this fact in his written statement. He did not also record the names of any workers who were planning in the way as alleged that night. Now inquire whether to believe such a witness or not. On the 10th April morning there was no sign of any such plan being executed. There was also no sign of any meeting being convened on the following day. Therefore could these circumstances be said to have been proved? What there a plan by the P.W.D. workers to prevent the other P.W.D. workers from doing their work and also to prevent the workers of Marine and Chatham from doing their work? Would it be so in view of the absence of any mention of this plan to prevent the other workers as one of the grounds in the order under section 144. If the danger was there then it ought to have been included as one of the grounds in the order itself. It is, however, not mentioned. What is the conclusion? It would appear to me that these circumstances cannot be a correct basis for forming an opinion or to create reasonable apprehension in one's mind that on the following day the P.W.D. workers will go and overawe other industrial workers also. I am therefore in the context of the above circumstances led to conclude that there was no reliable ground to come to a conclusion that the P.W.D. workers had planned to obstruct other workers elsewhere in Port Blair or in the other islands. In fact it appears that there was no such apprehension at all. Otherwise it would have been mentioned in the order itself. This circumstance in my opinion therefore cannot be said to have been proved.

78. The District Magistrate made up his mind to issue section 144 Cr.P.C. Order.—The next important circumstance is whether the District Magistrate has made up his mind to promulgate the order under section 144 Cr. P.C. between the night of 9th April and 10th April and that he drafted such an order to promulgate it on the next day early in the morning. The case of the workers is that the District Magistrate had drafted this order in the office of the Superintendent of Police that night and that therefore he had made up his mind at that time to promulgate it on the next day and that therefore he did not freshly apply his mind again to the incident that occurred in the morning of the 10th April before promulgating the order under section 144 Cr. P.C. The District Magistrate admitted that after meeting the workers at about 6-30 p.m. at the P.W.D. store on 9th April he gained an impression that the crowd was adamant and that they were not ready to disperse. He says that he was with them for about 1½ hours. He went to the Superintendent of Police at his office at about 8-30 p.m. The Superintendent of Police and the Additional District Magistrate Shri Pande were still there. He gave to them his assessment of the situation and informed them that if the behaviour of the P.W.D. workers continued likewise, resort to section 144 might be necessary. He has therefore asked the Superintendent of Police to make necessary bandobast so that they could meet any situation on the next day that might arise. He had also informed this on the telephone to the Chief Commissioner. He told him also that he was taking the necessary steps on the following day. The Superintendent of Police and the District Magistrate therefore at that time decided that they should go round the town the following morning at 5-30 A.M. He informed Shri Pande also to remain at his house so that a magistrate could be readily available. In his cross examination he admits that he had told the Superintendent of Police as well as the Additional District Magistrate that if the behaviour of the workers continued to be the same on the following day as it was on the 9th April, the promulgation of section 144 Cr. P.C. might be necessary. He admits having drafted that order and arranged for the typing of the copies thereof. But he says that he had not made up his mind to promulgate that order at that time. He says that he drafted it because a written order was necessary whenever it was promulgated. He pleads that he had not signed the order at that time, but he signed it on 10th April, 1962 when he took the decision to promulgate it. Shri J. S. Pande and the Superintendent of Police both corroborated him. The Superintendent of Police says that the District Magistrate informed him that the action under section 144 Cr. P.C. may have to be taken if the situation did not improve. The District Magistrate also asked him to make the necessary bandobast. The Superintendent of Police therefore issued the memo for duty during the night and the next day. Now the point that arises here therefore is: whether all these circumstances plus the promulgation of the order early in the morning on 10th April, 1962 show that the District Magistrate had already made up his mind in the night to promulgate such an order on the next day early in the morning? The order is as follows:

79. "Under Section 144 of the Criminal Procedure Code.

Whereas it has been made to appear to me that the workers of the Andaman Public Works Department have resorted to a strike and on 9th April, 1962 they proceeded in a procession to the Secretariat building, Port Blair and obstructed government



officers in jeep from going and coming out of the Secretariat building;

And whereas on the aforesaid date, in the afternoon they also proceeded in a procession to the P.W.D. godown at Phoenix Bay and threatened and prevented the labourers of the Andaman Labour Force from attending to their lawful duties of loading and unloading of government vehicles, and I have reason to believe that they are likely to indulge in such activities which are likely to disturb the public tranquillity;

I, B. K. Halve, District Magistrate, Andaman and Nicobar Islands do hereby prohibit all public meetings, demonstrations and processions in any public or private place and the assembly of 5 persons or more in public thoroughfares, roads or in any open places within the limits of the Port Blair Municipal area,

This order will remain in force for one month with effect from today.

Given under my hand and seal of the Court, this 10th day of April, 1962.

Sd/- B. K. HALVE,  
District Magistrate."

80. Now therefore it is clear from this order that it was promulgated on 10th April, 1962 at about 7-00 A.M. This was admittedly promulgated after the District Magistrate found a large number of workers gathered opposite the cemetery and also according to the Administration on the road and were in threatening mood. According to the Administration at that time all these workers were aggressive and were threatening the Andaman Labour Force workers and preventing them from doing their duty in the P.W.D. godown. The order however merely mentions the incidents of the 9th April 1962 and does not mention at all anything about any incident of the 10th April 1962. Could not the incidents and the implicating circumstances of the 10th April, 1962 which led the District Magistrate to issue this order on that day, not have been cited in this order? In the ordinary course of duties and also natural conduct, the fresh incidents of the 10th April, 1962 ought to have been included in this order if those were the incidents which were really the basis for issuing this order on 10th April, 1962. Could this be a circumstance to conclude that the District Magistrate had already made up his mind during the night of 9th April, 1962 and 10th April, 1962 to promulgate an order on 10th April, 1962. Although the District Magistrate says that he thought that if the attitude of the P.W.D. workers which was on the 9th of April continued on 10th April 1962 also, promulgation of section 144 order might be necessary. The Superintendent of Police says that the District Magistrate told him that the situation was getting worse and told him also that he felt it necessary to promulgate the section 144 order. Was the situation in the morning of 10th April any different from the situation in the morning or in the afternoon of 9th April, 1962? The case of the Administration is that the workers were adamant and that they were refusing to disperse on 9th April, 1962 and the workers were also threatening the Andaman Labour Force workers with dire consequences. That is also their case as on 10th April, 1962. Now therefore it is clear from the contents of the order as also the situation which was the same on the 10th April, 1962 as was on 9th April, 1962, that the District Magistrate had made up his mind on 9th April, 1962 to promulgate the order on 10th April, 1962, if such a situation exists. I am supported in this conclusion because both the District Magistrate as well as the Additional District Magistrate had been warning the P.W.D. workers on the 9th April, 1962 that if the behaviour of the workers continued in that way it would be necessary to promulgate the order under section 144 Cr. P.C. to maintain law and order. There was nothing new on the 10th April compared to what happened on 9th April, 1962. It is common ground that there was no physical violence committed by any of the workers either on 9th April, 1962 or on 10th April, 1962. It is also common ground that none of the workers had actually come in the way of any of the Andaman Labour Force workers proceeding to the work and had contacted them physically. Therefore it would not be unreasonable to conclude that the District Magistrate had made up his mind on 9th April, 1962 to promulgate such an order on 10th April, 1962 if in his opinion the same situation continued. When the situation on 10th April, 1962 was any way different and explosive why did he not include it as grounds for promulgation of this order in that order? In my opinion the situation was certainly not violent. The workers were certainly there. They were there perhaps shouting slogans. They were there perhaps threatening the Andaman Labour Force workers not to do their work. According to the Administration when the Superintendent of Police and the Assistant Superintendent of Police went towards the Andaman Labour Force workers

some workers rushed towards them. Was this situation explosive? Was this situation such as not to allow the District Magistrate to draft a fresh order mentioning also the incidents of the 10th April, 1962 and then issue it. At that moment there was no stone throwing. At that moment there was no apprehension either to the person of police force or to any officer or to any property. The situation therefore in my opinion, sitting as I do in a peaceful court, still appears to me to be good enough to allow the District Magistrate to draft such an order as I mentioned above. If what I say is true then why did the District Magistrate not include the incidents of the 10th April, 1962 in this order. The only irresistible conclusion in my opinion, in this context of the above said circumstances would be that the District Magistrate had already made up his mind between the night of 9th April, 1962 and 10th April, 1962 to promulgate an order under section 144 on the next day early in the morning, if the workers continued again to overawe the Andaman Labour Force workers near the P.W.D. godown. It may be that he had not signed it at that time. Mere signature early in the morning will not deter such a conclusion. I am therefore led to the above said conclusion.

81. Summarising therefore the above said conclusions there is no doubt that the workers had made their demands on 8th January, 1962. I do not propose to give any finding as to what exactly of demands were or what the demands of the workers were because that is not my jurisdiction. Suffice it to say that there were some demands of the workers and the Administration was considering them. It does not appear to me that any assurance had been given to the workers by the Principal Engineer that the Administration will take a final decision on their demands within about 20 days or before 31st January 1962. It does not also appear to me that the Chief Commissioner has informed Shri Ganesh at New Delhi that the Ministry of Finance had in principle accepted certain demands of the workers. Moreover I have also come to the conclusion that there is no delay on the part of the Administration at all in taking a final decision because it was for the Government of India to do so. They were however considering the matter for a very long time. But so far as the workers are concerned the period between 8th January, 1962 when they first made demands and 10th April, 1962 when the firing was opened cannot be said to be an unduly long period so as to make the workers impatient. It is true that there was a procession of the workers on 9th April, 1962 to the office of the Principal Engineer in the Secretariat to represent their demands. The Principal Engineer's reply did not satisfy the workers. Although the workers were persuaded to disperse by about 2-00 to 2-30 P.M. that day. It appears, however, that the workers did cause obstruction that forenoon to the vehicles of the officers in the Secretariat premises. 1500 workers who had gathered there without any leader could not but act that way there. Because they were informed that the Administration had engaged the Andaman Labour Force workers to load the G.C.I. sheets in trucks at the P.W.D. godown at Phoenix Bay, therefore about 400 workers left the Secretariat for that place. I have come to the conclusion that these workers who were not led by any leader and who had gone there after the above said information could not but overawe the Labour Force workers and prevent them from doing their duties at the P.W.D. godown.

82. The District Magistrate appears to have been informed on the morning of 10th April 1962 that the P.W.D. workers had planned to picket other industrial units. In my opinion this information did not prove to be correct. The promulgation of an order under Section 144 Cr. P.C. could not therefore be based on this ground. There is in fact no mention of this ground in that order. It appears also that the District Magistrate had already made up his mind during the night between 9th April and 10th April, 1962 to promulgate such an order on the morning of 10th April, 1962 if he would find any P.W.D. workers over-awing or threatening the Labour Force workers not to do work. Accordingly, therefore, when he saw about 500 to 600 workers assembled on the mound opposite the cemetery near the P.W.D. godown and when he saw some of the workers threatening the Labour Force workers he promulgated such an order.

#### PART IV

##### SOME MORE CIRCUMSTANCES AND THE INCIDENT OF FIRING

83. Incidents of 10th April, 1962.—Then we come to the incidents that took place on the 10th April 1962. The District Magistrate and the Superintendent of Police left their residence early in the morning that day at about 5-30 A.M. They were in the jeep of the District Magistrate. When they went to the Phoenix Bay godown they found in the open elevated ground opposite the cemetery near the P.W.D. godown about 200 workers squatting. The Assistant Superintendent of Police, Shri Bhagwat Singh was there and he informed the District Magistrate that the workers had a

plan to picket the P.W.D. office and other industrial establishments. Therefore, the District Magistrate and the Superintendent of Police went round to see what was happening there. They found that the situation was normal there. Then both these officers returned to Phoenix Bay. On their return at about 6-00 A.M. they found about 600 workers squatting there. They also enquired about the Andaman Labour Force workers. These officers were informed that the Labour Force workers were unable to proceed to work because they were threatened and obstructed by the P.W.D. workers. It appears that the Superintendent of Police himself then went to the Andaman Labour Force workers to find out what exactly the matter was. The evidence is that at that time one worker by name Raju followed by about 40 P.W.D. mazdoors were seen rushing towards the Andaman Labour Force workers. However, the Superintendent of Police and the Assistant Superintendent of Police went to the Andaman Labour Force workers and asked them that they should proceed to work spot. The Labour Force workers complained that they were unable to proceed to the work spot because they were threatened and obstructed by the P.W.D. strikers. It appears at that time, these Andaman Labour Force workers also stood up and were about to proceed to the P.W.D. godown. According to the Superintendent of Police, again Shri Raju and other P.W.D. strikers rushed towards them and threatened them not to proceed further. The Superintendent of Police apprehended trouble and, therefore, took prompt action to prevent Raju and his followers coming to a clash with the other Andaman Labour Force workers. He and the Assistant Superintendent of Police sent away Raju and the Andaman Labour Force workers aside and advised them to be peaceful and not to obstruct the Andaman Labour Force workers. The P.W.D. strikers were however not in a mood to listen to the advice of the Superintendent of Police. Then the Superintendent of Police went back to the District Magistrate.

**84. Order under Section 144 Cr. P.C. Promulgated.**—The District Magistrate on seeing this situation promulgated an order under section 144 of the Cr. P. C. The order was then explained in Hindi as well as in Tamil on the loudspeaker. The Assistant Superintendent of Police also explained to the workers that they should disperse within 10 minutes and if they did not disperse, the Administration would have to resort to force like water jets, tear gas, cane charge and even firing, if necessary. This was at about 7-04 hours. According to the Administration, the workers were however adamant and were not willing to leave their places. Some workers from Ranchi however had left their places when the order was explained to them, but the other P.W.D. workers who assembled there stated that they had not committed anything wrong and that they had come there only for their stomach; that therefore, they would only go after their demands were met. The case of the Administration further is that after a lapse of 5 minutes, the crowd was again warned to disperse. Once again after a further lapse of 4 minutes they were warned. The case of the Administration is that even after the lapse of 10 minutes the workers did not disperse.

**85. Order to use force to disperse the crowd.**—As the workers did not disperse, therefore, the District Magistrate ordered the Assistant Superintendent of Police to use force by means of water jet, tear gas and cane charge. It appears that after this order water getting was started. According to the Administration even after the pouring of water on the workers, the workers remained adamant and did not move. The case of the Administration further is that the entire water from the fire tender was thrown. The crowd did not still move. Therefore, it was ordered that tear gas shells should be thrown on the crowd. Thereafter 7 tear gas shells were thrown on the crowd. Because, according to the Administration, none of the crowd moved and dispersed, therefore, the cane party was ordered to move into action. On the other hand Shri R. Raju a carpenter of the P.W.D. (Construction Division), Port Blair has stated that he came there at about 5-00 A.M. that day and found the Fire Brigade, police force and other officers there; that when the workers had collected there, the police asked them to go and sit aside. According to him, therefore, they all went and sat aside. They sat on the mound opposite the cemetery. His complaint is that he was crossing the *nallah* to go to the mound but the Superintendent of Police pushed him and told him in an offensive manner that he as a leader should get away. Then they all went and sat on the mound. According to Raju, he replied to the Superintendent of Police that a big officer like him should not push an ordinary mazdoor. He says that the Assistant Superintendent of Police went to the Andaman Labour Force workers to call them but they replied that they volunteered not to go for work until the demands of the strikers were settled. He says that at that time the Superintendent of Police told the workers that they will have now recourse to law. Then the order under section 144 was promulgated by the District Magistrate. The order was explained in Hindi as well as in Tamil. According to him immediately after the explanation the tender was brought near the culvert and water was thrown on the workers there. Simultaneously, according to him and the other workers, gas was thrown. As a result of this fear, the people there began to run

helter and skelter. Many of the workers were wet and many others were affected by the tear gas. The case of the workers further is that by the time they were able to get out from the place, the lathi police had already come into action. The workers were running away at that time towards the grave yard but the police surrounded them and prevented them from going away. According to them some workers had also fled towards the Gandhi Road side. Therefore, these are the inconsistent stories as given out by the Administration and the workers.

86. Now so far as these incidents are concerned there are several material inconsistencies between the version of the Administration and that of the workers. The version of the workers is that all the workers were only on the elevated ground opposite the cemetery. On the other hand the version of the Administration is that most of the workers were on the cemetery but some others also were found blocking the Delanipur Road and also across Gandhi Road and that they were all spread over till the gate of the cemetery. This could be seen well on the sketch. In this context it must be stated that according to the Administration two workers were hit by the bullets on the Delanipur Road. One was Perumal and the other was Sevagan. Both of them died as a result of bullet shots. The case of the workers is that these two workers were not hit on the road but they were near the static tank on the elevated ground. It would, therefore, be useful if I scan the evidence before me to find out as to where the workers exactly were at the time when fire was opened by the police.

**87. Where were the workers—on the mound or all over.**—Reading the evidence of Head Constable Narsingh Bahadur who was a member from the rifle party, he says in his cross-examination that gas shells were thrown on the open site opposite the cemetery on the crowd. According to him even the cane party ran only towards the crowd on the mound and they went about 10 to 15 steps ahead on the mound. He has also admitted in his cross-examination that the fire party had fired between the Gandhi Road and the gate of the cemetery. This was in the case of first overhead firing and also in the case of first effective firing. There was firing in an arch. According to him there were some strikers standing on the Gandhi Road also. He says that the workers were not at all on the main road; on the other hand according to him, they were on the Gandhi Road side and on the mound opposite the cemetery at the time of the first effective firing. He has not been able to explain how the workers who fell on the road by the bullet shots came there at the time of the first effective firing. This police man from the rifle party who had also opened fire, therefore, has deposed here that the PWD workers were only on the mound till the Gandhi Road side and they were not at all on the main road leading to Delanipur.

88. Then there is the evidence of one Head Constable Dava Shanker Pande, who was on duty that morning in the gas squad. This witness also says that he himself threw four shells and the Reserve Inspector threw the rest of the three shells. He says in his cross-examination that he threw one grenade on the main road opposite the Gandhi Road and another towards the south on the Gandhi road and two other grenades near the static tank; that R. I. Krishnaswamy threw his grenades on the mound near about the point 'B' marked on the map. This witness, however, says that the crowd extended till the main road. But one is unable to imagine why only one grenade was thrown on the main road and the rest of the 6 grenades thrown on the mound. According to this witness, therefore, there may be a few persons who extended till the main road and perhaps that is the reason why one grenade was thrown that side. But his story is inconsistent in written statement. It is significant to notice that he did not mention about his throwing one grenade towards the main road in his written statement. Therefore even this witness' evidence is doubtful on the point that the crowd extended till the main road.

89. In so far as the firing is concerned, Head Constable Narsingh Bahadur says that the first effective firing was made between the Gandhi road and the gate of the cemetery and the second effective firing was towards the mound opposite the cemetery. Therefore according to this Head Constable even the firing was done towards the mound only. Head Constable Bhiya Ram Kachup who was on duty on the fire tender also corroborates them and says that he threw water on the side of the mound opposite the cemetery. For the purpose of throwing water on them he had to go across the culvert and also a path. According to him 800 gallons of water was thrown. They threw all the water on the front line of the crowd. This witness has also stated that the cane party who were charging the crowd did so only on the site opposite the cemetery, near about the road and the *nallah*. Then there is the evidence of one Head Constable Banarsi Lal who was in charge of the cane party. He corroborates them and says that they charged the crowd with cane on the open ground opposite the cemetery. There is also the evidence of police constable Anurudh Sharma of the cane party. He says that they had advanced ahead on the mound and that they were facing the crowd towards the

grave yard. Evidently therefore this witness also says that they had charged the crowd on the mound. In the evidence of constable Ram Singh of the Fire Brigade party he also says that the cane party charged in anarchy towards the mound opposite the cemetery. Although he has not stated in his written statement that when they went to the Phoenix Bay that morning they saw the P.W.D. workers on the Gandhi Road or on the main road towards the Delanipur, he has given his evidence here contradictory to his statement. Similarly he has stated here before the Commission that the gas party threw two tear gas shells on the main road and on the Gandhi Road but he did not mention about it in his written statement. The evidence of such witnesses therefore is not reliable. Now, therefore, so many of the Administration witnesses have stated that the shells were thrown only on the mound, that water was also thrown from the fire tender only on the mound, that cane charge was done only on the mound; one of the constables who took part in the firing has also stated that the firing was done on the mound. What should be conclusion then from the evidence of these Administration witnesses? The only conclusion is that the P.W.D. workers were all on the mound; at any rate till the fire was opened by the police. That is also the case of the workers in general. The learned counsel for the Administration invited my attention to the evidence of some witnesses on behalf of the workers on this point and argued that the crowd was also on the road. Witness Maha Laxmi, a mazdoor of the Andaman Labour Force says that some onlookers were on the Delanipur Road under a mango tree and he stood with them there. This witness certainly does not say that the P.W.D. workers were on the road side. Even witness Hamza, P.W.D. Fitter, deposes only that the people were running towards the Delanipur Road side. He is a person who got a bullet wound on his right hand. This witness also does not say specifically that the P.W.D. workers were on the road side. Therefore all the above said witnesses certainly disclose beyond doubt that the P.W.D. workers were all on the mound and not on the road side.

90. Besides the above evidence of the police force and others, we have also the evidence of officers who support my conclusions. Let us now turn to the evidence of some of the officers and see what they say about the place where the crowd was. The District Magistrate at first says that the crowd on the road side was along the line AB on the sketch. Afterwards however he has stated that they were not on AB but on A1B1. According to him on this line the P.W.D. workers had blocked the entire road. According to him the crowd of workers were along the arch A1GFC1A1 that is marked on sketch. This is therefore the evidence of the District Magistrate. Turning however, to the evidence of the Assistant Superintendent of Police Shri Bhagwat Singh who was the man in charge of the firing party, gas party, cane party and the fire brigade we notice that he contradicts the District Magistrate. He also says that the gas shells were thrown on survey number 1359 which is the open site opposite the cemetery. He says that all the seven shells were thrown on the mound. Similarly he says that when he ordered Banarsi Lal, the person in charge of the cane party, to charge, they crossed the culvert and the Nallah towards the burial ground and charged on the persons towards the burial ground. The persons at point 'V' got some lathi hits according to him and therefore they ran away. Point V is in the open site. He says that the cane party must have gone till about the point W on the sketch; that is also on this open site. Although in his examination-in-chief he says that at the time of firing the crowd was at A1GVC1A1, still he says in his cross-examination that he got the firing done only from the Gandhi Road side to the burial ground. Therefore evidently according to this officer who was in charge of the whole police party he did not get the firing done on the public road at all. What does this show? He has also stated that he had one water tank and the jet was directed from about the place O1 on the sketch to the place around 'V' in survey number 1349. Therefore, even water was thrown on the mound. Evidently therefore the testimony of this material witness is that he directed not only the water on the mound but also the lathi charge, the gas shells and even the firing. There are other witnesses also corroborating this but I do not propose dealing in detail with all of them. Scrutinising therefore the evidence of all these important witnesses who were in charge of the police force party namely, Head Constable Narsingh Bahadur, Head Constable Daya Shanker Pande, Head Constable Bhiya Ram Kachup and Head Constable Banarsi Lal and also Assistant Superintendent of Police Shri Bhagwat Singh, we notice that all the force was used on the mound. If there were some workers on the Delanipur Road area as alleged by the District Magistrate on A1B1 then surely the gas shells ought to have been thrown that side too. Even water ought to have been thrown that side. Cane charge party could have been sent that side to disperse the workers. The case of the Administration according to the District Magistrate is that they had blocked the way there. The evidence is however to the contrary. On the other hand the Assistant Superintendent of Police himself says that not only water was thrown on the mound but also cane charge was done that side. According to him even firing was

arranged to be done from the Gandhi Road side to the mound side. Even the Superintendent of Police says that workers rushed at the Andaman Labour Force workers from the mound. If they were on road, they would have rushed from there. All these circumstances in my opinion beyond any shadow of doubt show that the P.W.D. workers were all assembled on the mound and they could not have been blocking the road at all. I am therefore led to the abovesaid conclusion by the overwhelming evidence of the Administration themselves.

91. Whether strength of police adequate on spot.—We will now move to another circumstance. The District Magistrate has stated that he asked the Superintendent of Police to make the necessary bandobast for the next morning when he met the Superintendent of Police and the Additional District Magistrate in the night and when he drafted the order under section 144 Cr. P.C. The Superintendent of Police did make the police bandobast in the morning. The learned counsel for the workers has argued here that it was unwise on the part of the Administration to have only a force of 11 police constables who were to go in action for cane charging on the next day to meet an explosive situation. According to him, after the District Magistrate had come to the conclusion on the 9th April night that an order under section 144 Cr. P.C. would be necessary on 10th April, 1962, he ought to have seen that sufficient force was available on that day to disperse the crowd of about 700 P.W.D. workers, without resorting to firing. He has contended that instead of posting adequate force, the police force was very small; according to him large number of police constables could have been collected during the night and a sufficient force could have been posted near the P.W.D. godown. Therefore, according to him, having taken a decision to promulgate an order under section 144 Cr. P.C. the next day morning, the consequential decision to keep ready sufficient force was also necessary. He argues that only 11 police constables were posted for cane charging and this decision according to him was not wise. He has vehemently contended that even if it is granted that the use of the force was necessary at that time firing could have been avoided if sufficient cane charging police constables were posted and used for the purpose of dispersing the crowd. We have, therefore, to see what exactly the strength of the police force is at Port Blair and other places on that day because according to the learned counsel, the Superintendent of Police acted unwisely by not bringing adequate force at Port Blair to meet the situation on the 10th April, 1962. Could he and the District Magistrate have avoided the firing which took place on 10th April, 1962? Could he have collected more force? The Superintendent of Police has given evidence here that in his opinion the situation was not critical on the 9th April 1962; that however, according to him, at that time there were 5 police stations in South Andamans. They were:

- (1) Aberdeen Police Station.
- (2) Dandus Point Police Station.
- (3) Bambooflat Police Station.
- (4) Rangai Police Station.
- (5) Maya Bandar Police Station.

At the Aberdeen Police Station which is in Port Blair, the Police force on that day was 43. There are two out-posts of this police station viz. Chatham and Pahargaon. The distance between the P.W.D. store and Chatham outpost is about 2½ miles and the distance between the P.W.D. store and Pahargaon is between three to four miles. According to him the police force at Chatham was eight and at Pahargaon it was six. The police station at Dandus Point had a strength of one and 12 and its distance by sea to the P.W.D. store was 4 miles but by road 20 miles. There were two out-posts of this Dandus Point and they are Hamfriganj and Tusanabad. The strength of each of these out-posts is 6 to 8. Hamfriganj and Tusanabad is about 18 and 22 miles respectively by road from the P.W.D. store. The other police station at Bambooflat is at a distance of three miles from the P.W.D. store by sea and the strength there was about 12. There is one outpost of Bambooflat viz. Havelock and its strength was 5. Havelock to Marine Jetty is about 25 miles by sea. Now therefore it was argued that if not all this strength, at any rate, some strength, could have been brought to Port Blair for meeting the critical situation on 10th April, 1962. In other words the police force of 6 at Pahargaon, the police force of 12 at Dandus Point, the police force of 12 at Bambooflat and also of other near stations could have been brought as reinforcement to the 43 at Aberdeen Police Station.

92. But according to the Superintendent of Police there is also a reserve police force posted at the State Bank and that is 1 and 6. There is also a police force at the Chief Commissioner's office which is 1 and 10; at Chatham 1 and 18; Marine Dockyard 1 and 12, Police wireless Inter-State Station 1 and 6; Government House 1 and 6; Collector Guard 1 and 6; Ma'khana 1 and 4; the strength of the fire brigade was 55. The Superintendent of Police has stated that the fire brigade was manned by the police but it is a separate unit specially trained for fire fighting purposes only. He has, however,

admitted that some of them were originally recruited from the regular police force. There was also Band Police Unit of 28 and a couple of them were originally recruited from the police force. They have also what they call Jungle Police who according to the Superintendent of Police are not in regular police uniforms. They are 350 in number. According to the Superintendent of Police they do not get regular police training. However he has admitted that he had brought some Bush police, who are jungle police, to the town after 10th April, 1962 to do static duty for maintaining law and order. Then he gives out the other stations there strength but they were far away. The Superintendent of Police has also stated that the police have two police boats—one 'Subhash' and the other 'Jawahar' and they run at about 10 to 12 knots per hour. He said that each could accommodate about 12 persons. He says that he could take more but if he does so he would commit a breach of certain laws. However, he admitted that on one occasion he has accommodated 24 including the crew. Therefore it is argued that this force could have been collected at Port Blair to meet any critical situation on 10th April, 1962. The learned counsel for the workers has contended here that it was their duty to collect a large force to avoid firing on the next day. Is that so? The learned counsel for the Administration has replied that the P.W.D. workers were everywhere in the islands and that therefore it was not possible for them to bring all the police force of the island to Port Blair on that day; that otherwise, according to him, the Muffasil area could have been without police force. The learned counsel for the Administration therefore contends that large number of police force in those circumstance could not have been brought to Port Blair on that day. He has also furnished a chart of the strength of the armed force at Port Blair on that day. According to that chart there were police forces posted as follows:—

93. Collector Guard (2 and 7); at Government House (1 and 6); Marine Guard (2 and 11); Chatham Guard (2 and 18); Inter-State Police Wireless Guard (1 and 4); Secretariat and Bank Guard (4 and 12); Malkhana Guard (1 and 3); Hospital Guard (3 and 7); Prisoners Escort (4); Jungle Guard (4 and 1); Special Guard (4 and 13); Phoenix Bay P.W.D. Godown Guard (1 and 5); Aberdeen Police Station (10); Orderlies (38); fixed duties in police headquarters (4 and 8 plus one Sub-Inspector) and two Assistant Sub-Inspectors for emergency duty (4 and 24 plus one Inspector, two Sub-Inspectors and three Assistant Sub-Inspectors).

94. Now the point is whether all this force plus the force of the neighbouring police stations and the outposts could have been brought to the P.W.D. store and firing avoided? The firing squad which was brought to the place of incident was in the beginning five. The lathi charge party consisted in the beginning of only 7. Is this number adequate and could this number have been increased or could it not have been? The strength of police force posted certainly was inadequate. But looking to the number of police force all over I am of opinion that it could have been possible to bring at least some more police force from the different points. If the Administration had imagined that an explosive situation would occur near the P.W.D. godown after the promulgation of the section 144 order, it would have been better if they had at least brought, if not in large numbers, at least an adequate number from those points. But could they have brought them. Looking into all the figures of the police strength it appears to me that the cane charge party could easily have been a bigger party. We have seen that the strength of the P.W.D. workers was about 500 to 600. The cane party was one Assistant Sub-Inspector, one Head Constable and 11 Constables. This force certainly in my opinion was inadequate.

95. But the case of the Administration is that they could not have left the other points unguarded and therefore it was not possible for them to bring more force. According to a report submitted by the Assistant Superintendent of Police Shri Bhagwat Singh the following force was present there at the P.W.D. store on 10th April, 1962. There were two unarmed Inspectors. In the cane party, there was one Assistant Sub-Inspector, one Head Constable and 11 Constables; in the gas party there was one Inspector, one Head Constable and two Constables and in the Rifle party there was one Sub-Inspector, one Assistant Sub-Inspector and one Head Constable and four Constables. In the fire brigade party there was one Head Constable, one L.H.C. and 5 Constables. Therefore looking into all these figures the strength was certainly inadequate. But the Administration says that they could not leave other stations unguarded in such serious situations. The argument of the learned counsel for the workers appears to be very attractive; but the Administration chose not to draw upon other point and perhaps it could not have brought sufficient strength to cope with any critical situation on that day, if they did not desire to leave unguarded some points. If they had taken a risk of bringing reinforcement from other guarded points, they could however have brought some more force. But they did not take any risk.

96. Looking to the bandobast order of the Superintendent of Police it appears that he has done the bandobast by post-

ing police at the Secretariat building, offices of the Executive Engineers, P.W.D. godown and public reservoir. He has also kept some striking force at Aberdeen Police Station and some emergency force at the police lines. There were also two mobile parties. Therefore looking to the bandobast order and the available force I am rather doubtful if the police could have collected more force than was brought at the P.W.D. store on that day.

97. Was the loading of G.C.I. sheets necessary on 10th April, 1962.—The other contention that was raised by the learned counsel for the labour is that there was no urgency for removal and loading the G.C.I. sheets from the P.W.D. stores on 10th April, 1962. It has come in evidence that actually they were removed later on, on 21st April, 1962. The learned counsel therefore has contended here that when there was no urgency to remove these G.C.I. sheets, this removal was done by the Administration merely as an *ex-post facto* justification for resorting to force as well as for resorting to firing. On the other hand the District Magistrate has stated here that the G.C.I. sheets were urgently required for the new settlers in the Andamans and that these sheets were required for the purposes of housing them. But the point is whether they could have avoided the loading or the removal of the G.C.I. sheets on 10th April, 1962 or even delayed by one or two days. It has come in the evidence of the Store Keeper Shri Sharma who is examined on behalf of the Commission that the P.W.D. store had an indent of the G.C.I. sheets from the Revenue Department on 31st March, 1962. The indent is on record. The storekeeper has received a letter from his Executive Engineer to open the store on 8th April, 1962 and give them 120 tons of sheets. It must be remembered that 8th April, 1962 was a Sunday. Shri Sharma has stated that on that day he handed over these goods to the Revenue Department. It appears that 40 Labour Force workers had done this work of removal. He, however, says that this is the time that the Revenue Department has indented the G.C.I. sheets from the Stores and before that they had never indented such sheets at all. According to him they finished taking away all the indented G.C.I. sheets on 15th of July, 1962, but the first removal after 9th of April was only on 21st April 1962. It is the contention of the Administration that this delay is all due to the difficulties of light crafts which are used to carry these sheets. All these circumstances show that the removal continued till 15th of July, 1962. Now do these circumstances show that there was any urgent necessity of removal of the G.C.I. sheets on 10th April, 1962? Could the Administration not have avoided the alleged explosive situation on 10th April, 1962 by not removing these sheets on that day or even a few days later? If the P.W.D. workers had gathered on the open site opposite the cemetery, was it not due to the fact that the Labour Force workers were also present and were engaged by the Administration to go to the P.W.D. stores and do the work of removal of the G.C.I. sheets? Could it have been avoided?

98. It is in evidence that about 500 workers left the Secretariat premises on 9th April, 1962 and had gone to the P.W.D. store when they came to know that the Administration had engaged some Andaman Labour Force workers to remove the G. C. I. sheets. Actually about 1500 workers had assembled in the Secretariat that day. They were dispersing at about that time when this information was received by them at the Secretariat premises. Because they got this information, therefore, about 500 workers went to the P.W.D. stores and found the Andaman Labour Force workers there. Evidently therefore it is clear that the P.W.D. workers had gathered there because they gained an impression that the Andaman Labour Force Workers were engaged as black-legs and were doing their duties to smash their strike. They perhaps thought that the black-legs would impede the decision unfavourably in respect of their demands. They could not therefore have gathered there on 10th April, 1962 if the Administration had not engaged these Andaman Labour Force workers to load the G.C.I. sheets from the godown. If the P.W.D. workers had not gathered there on 9th, they would not have also assembled there in the morning of 10th April, 1962. The main purpose of their assembly was to see that the Andaman Labour Force workers should not do their work and should not thus create difficulties in the matter of their demands. The point, therefore, is whether such a situation could have been avoided. It appears to me that the Administration could have easily avoided this situation because in my opinion nothing dangerous could have happened if they had waited for 3-4 days more. It may be, that if they had waited for a few days more the excitement amongst the P.W.D. workers would have died down and the situation that was created on 10th April would not have come into existence. In fact, it appears from the evidence and circumstances cited above that the G.C.I. sheets were being removed till 15th of July, 1962. The removal after 9th of April of these sheets took place on 21st April, 1962. There is no evidence on record to show that some catastrophe had occurred because of the late removal of these sheets. It is urged that these sheets were required for the housing of the new settlers in the Andaman Islands and therefore these sheets were urgently needed. Surely those sheets could have been removed and without any hardship to these new settlers, three days later. In fact these were removed, whatever may be the

reason, on 21st April, 1962 and with no damaging results. All these sheets actually were being removed till 15th of July, 1962 but nothing untoward had happened. These circumstances, therefore, lead me only to the irresistible conclusion that the Administration could easily have delayed the removal of these sheets by a few days. Because they had not chosen to delay the removal of these sheets, therefore, in my opinion the alleged ugly situation was created. That situation was, therefore, created on account of this indiscreet Act of theirs. It would have been better if they chose to be discreet rather than valourous.

99. **Connection between incidents of 9th April, 1962 and 10th April 1962.**—The learned counsel for the workers has also contended here that the incidents of 9th April 1962 could not properly be stated to be connected with the firing on 10th April, 1962. According to him there is no causal connection of these incidents with that of firing. On the other hand the learned counsel for the Administration has replied that the firing is nothing but a continuation of the incidents that took place on 9th April, 1962. 1500 P.W.D. workers gathered in the Secretariat premises on 9th April, 1962 in the morning. The authorities managed to persuade the workers to disperse. They dispersed at about 2-00 P.M. While in the premises of the Secretariat there were obstructions to the transport vehicles of the officials. Because the workers while dispersing learned about the Andaman Labour Force workers at the P.W.D. stores, therefore, some 500 of them went that side. They found the Andaman Labour Force workers there, ready to go for work. They had therefore threatened the Andaman Labour Force workers and asked them not to go for work in the P.W.D. stores. The Andaman Labour Force workers were there till late in the evening and the P.W.D. workers also were there. In fact a few of them also remained on the mound during the night between 9th April 1962 and 10th April 1962. In the morning many more P.W.D. workers gathered there and the Andaman Labour Force workers were also brought there to do the work. It is the case of the Administration that the P.W.D. workers had prevented these Andaman Labour Force workers from doing their duty. Therefore an order under section 144 of Code of Criminal Procedure was promulgated. The workers did not disperse; therefore force was employed and ultimately an order to open fire was given. It appears that there is all the connections between the conduct of the workers on 9th April 1962 and also the incidents that day and the incidents of 10th April 1962. Although the conduct of the workers on 9th April 1962 could not be said to have any causal connection with the firing still the conduct of the P.W.D. workers on 9th would show their state of mind. Therefore, in this sense because the state of mind of the workers who were excited on 9th April 1962 became more excited when they saw that the Andaman Labour Force workers were engaged by the Administration to the work of loading at the P.W.D. stores. Therefore, there is continuity of the incidents on 9th April 1962 and 10th April 1962. All the incidents are due to demonstrations. In this sense therefore I think the incidents of 9th April 1962 are connected with the incident of firing on 10th April 1962. All the incidents were the result of their demands and also demonstration.

100. **Order under section 144 Cr. P.C. and use of force immediately.**—Coming now to actual promulgation of the order under section 144 Cr.P.C. the District Magistrate stated that when he found some workers under the leadership of Shri Raju rushing towards the Andaman Labour Force workers and threatening them not to go for work he had no other alternative but to promulgate this order. There is no doubt that the District Magistrate has power to issue such an order in urgent cases of apprehended danger. The District Magistrate in his evidence has stated that he felt that it would not be advisable to arrest the workers and therefore he had passed this order. According to him, the Superintendent of Police also was of this view. Now having promulgated the order his main concern was to disperse the workers from that place. The learned counsel for the workers has argued here that after having promulgated this order, was there any urgency of immediate recourse to force? According to him, the use of force immediately after the promulgation was unnecessary. He contends here that there is nothing on record to show that the state of mind of the workers was such at that time which would indicate violence. He argued that the workers were very peacefully picketing there and they were actually squatting on the mound there and that the workers were neither violent nor intending to be violent. He has further stated that there was at that time neither any stone throwing nor any physical violence nor was there any attack or attempt to attack the Andaman Labour Force workers or the police. According to him, therefore, there was neither any danger of any property being destroyed nor any officer or the police force being injured. The learned counsel therefore complains that there was absolutely neither any justification nor necessity for immediately making arrangements to use force to disperse the crowd. I recalled the District Magistrate and asked him several questions. He was asked as to why he did not wait for one or two more days. He answered that if he waited for

one or two days more and allowed the workers to sit there obstructing the Andaman Labour Force workers it would have amounted to paralysing the Administration and allowing them to take law into their own hands. Moreover, according to the District Magistrate, he thought at that time that this obstruction would extend to other workers in industries such as Chatham and Marine because they received information about this. He has further stated that he had not even waited till the noon or till after 7.00 A.M. because according to him there was no prospect of any improvement in the conduct of the workers who were squatting there. He has further stated that this opinion of his is in the background of what happened on the 9th and 10th morning. He explains that the authorities resorted to force because the crowd failed to disperse although section 144 Cr.P.C. was promulgated. According to him, because they did not disperse within 10 minutes therefore he had to use force. The point now therefore that is raised by the learned counsel for the workers is whether it was necessary immediately to employ force. Under section 127 of the code of Criminal Procedure any Magistrate may command any unlawful assembly or any assembly of 5 or more persons likely to cause disturbances or breach of the public peace, to disperse and shall thereupon it is the duty of members of such assembly to disperse accordingly. Therefore the plain meaning of this section is that when it appears that the behaviour of the persons who constitute unlawful assembly is such as to indicate that it would be the active party to the disturbance of the public peace such an assembly may be ordered to disperse.

101. The District Magistrate having promulgated the order under section 144 Cr. P.C. took upon himself the responsibility of dispersing the unlawful assembly immediately. The District Magistrate to whose discretion the law leaves the duty of dispersing assemblies must of course act upon his own opinion one way or the other and if his opinion is on the ground that the breach of public peace would be caused. But the point is whether the P.W.D. workers at this moment were acting in such manner as would likely to cause breach of peace. Could he not waited for some time and tire them out? It appears to me that as long as the Andaman Labour Force workers were there, face to face with these P.W.D. workers the P.W.D. workers would most probably have been in an excited mood. But then Shri M. Kumaramangalam, the learned counsel for the workers says that they were not violent; that they could not therefore be said to be an unlawful assembly. In my opinion this is not quite correct. Under section 144 of the Indian Penal Code an assembly of 5 or more persons is designated an unlawful assembly if the common object of the persons composing that assembly is to over-awe by criminal force or show of criminal force any public servant in the exercise of the lawful power of such servant or to commit any offence or by means of criminal force or show of criminal force to compel any person to do what he is not legally bound to do or to omit to do what he is legally entitled to do. It appears to me that if the P.W.D. workers were over-awing the Labour Force workers and were in that way compelling them to omit to do their duties then they could be said to be an unlawful assembly. According to the Administration, the workers were preventing the Andaman Labour Force workers from doing their duties by threats. The learned counsel for the workers has argued here that the Administrative authorities who were present there, were conditioned to exaggerate whatever the P.W.D. workers said or whatever way they acted. According to him, therefore in this condition of mind they believed the acts of the workers to be the threats. He argues and says that the workers never prevented Labour Force workers because not a single Andaman Labour Force worker was touched and that none of the Labour Force workers supports the case of the Administration, he therefore argues that actually the P.W.D. workers were merely asking for the sympathy of the Labour Force workers and the Labour Force workers had acceded to their requests and voluntarily did not go for work. He further contends that not a single Andaman Labour Force worker had come to the rescue of the Administration to support their case. On the other hand many Andaman Labour Force workers had come and had corroborated the story of the P.W.D. workers by stating that the P.W.D. workers were merely peacefully picketing the place. According to him, therefore, there was neither any violent act committed by the workers nor their frame of mind was in any way violently excited. The learned counsel also invites my attention to the statement made by the Honourable Minister for Home Affairs, Shri Lal Bahadur Shastri, on the floor of the Parliament. The Hon'ble the Minister had stated that on the morning of 10th April the District Magistrate and the Superintendent of Police were there at about 5.30 A.M. and then over 200 workers were still squatting near the P.W.D. stores in an hostile mood. Therefore Shri Kumaramangalam argues that the P.W.D. workers were merely squatting there and they were not violent. For all these reasons, therefore, he contends, that there was absolutely no necessity of employing force immediately. It appears to me that having created an ugly situation by engaging the Andaman Labour Force workers to do the job at the P.W.D. stores, that situation could not have changed even if the District Magistrate had waited for some time or days after the promul-



gation of order under section 144 Cr.P.C. there. The P.W.D. workers also would not have moved from that place as long as the Andaman Labour Force workers were present there. In my opinion, therefore, if it is true that the P.W.D. workers were obstructing the Andaman Labour Force workers that morning, there was no other alternative left for him but to employ force. He could have waited for some time but since he has chosen to disperse the workers at once, I think no body would find fault with the District Magistrate.

**102. P.W.D. workers obstructed Labour Force workers.**—The point therefore that will now have to be considered is whether on the morning of 10th April, 1962, the P.W.D. workers were preventing the Andaman Labour Force workers to do their duties.

**103. It is in evidence that the workers on the 9th when they assembled in the Secretariat had no leader.** Evidently therefore there was nobody who could guide them properly. When they got information that some Andaman Labour Force workers had gone to the P.W.D. Stores to do work in their place, about 500 of them went straight from the Secretary to the P.W.D. stores. The P.W.D. workers did obstruct the Andaman Labour Force workers on 9th April 1962 from doing their duties at the P.W.D. stores. The strikers remained there till the evening. The Andaman Labour Force workers also remained there till that evening. The Andaman Labour Force workers were then asked to go away without doing any work. Some of the P.W.D. workers, however, remained near the P.W.D. stores, on the mound for the whole night. The case of the workers is that those were the workers from outside and who had no other place to go and sleep. But at the same time there is evidence that the P.W.D. workers remained there the whole night because of apprehension that the Andaman Labour Force workers might be engaged to work in the P.W.D. stores. No wonder therefore that these P.W.D. workers were still there and they were determined to see that none others should work in their stead at the P.W.D. stores. With this determination, therefore, they remained there. Early in the morning the District Magistrate arrived at the scene. Their number increased to 500/600 workers. The District Magistrate found that some of the workers had rushed on the Andaman Labour Force workers when the Superintendent of Police and the Assistant Superintendent of Police went to bring the Andaman Labour Force workers. That is the evidence of the Superintendent of Police and the Assistant Superintendent of Police.

**104. The Superintendent of Police says that Shri Raju was on the mound and when he and the Assistant Superintendent of Police went to the Andaman Labour Force workers, Raju and his 40 workers had rushed to them.** The workers asked the Andaman Labour Force workers not to go to the work spot. The Andaman Labour Force workers complained that they were unable to proceed to the work spot because they were threatened and obstructed by the P.W.D. workers. The Superintendent of Police immediately apprehended some trouble. Therefore the Superintendent of Police prevented Shri Raju and his followers to come in clash with the Labour Force men. The Superintendent of Police sent aside Raju. There is also other evidence on record on the point of this obstruction. Shri Hardayal, Overseer of the Andaman Labour Force workers corroborated the evidence of obstruction by the P.W.D. workers. He says that all the P.W.D. workers were angry and were obstructing the Andaman Labour Force workers. Then there is the evidence of Sarish Chander Samaddar, Javabdar who also corroborates in material particulars the obstruction by the workers. According to him they did not allow them to go forward. He says that they had not physically obstructed workers but by threats they were preventing them. Then there is the evidence of Shanmugham Tevar. He also corroborates the above said evidence. On the other hand there is the evidence of the Andaman Labour Force workers which show that they were not prevented by Shri M. Ramachandran, Arumogam, Doraiswamy and other Andaman Labour Force workers deposed that they were not prevented by the P.W.D. workers at all; that the P.W.D. workers merely requested the Andaman Labour Force workers not to go for work in their place. According to these Andaman Labour Force workers, the P.W.D. workers were all peaceful.

**105. Now the point is whose evidence is true.** Is the evidence of witnesses on behalf of the Administration true or is the evidence of the Andaman Labour Force workers true? The Andaman Labour Force workers did come to the work spot after giving a role call as usual. They all came for work. They were detailed to do this work. They say that they were to work at the P.W.D. stores. They came to the work spot. They remained there for long. Why should they come from their places to the P.W.D. stores if they did not want to work at the P.W.D. godown? They must have certainly come there to do their duties. It is possible that they were persuaded out of sympathy not to work because of the requests of the P.W.D. workers. But was it a request or was it a threat? There is no reason why the Javabdar and the overseer depose falsely against them. Admittedly the P.W.D. workers had no leader at all at that time. If they wanted merely to peacefully picket, it was not necessary for 500/600

workers to be present there. In fact about 100 or more remained during the night there. What does this show? It shows evidently that they were there not for peaceful picketing but to see that none goes in their place to work in the P.W.D. stores. In my opinion, therefore, these circumstances clearly show that the P.W.D. workers, even in the morning of 10th of April, had threatened the Andaman Labour Force workers not to do work and it is therefore quite possible and probable that they must have rushed from the mound to see that no Andaman Labour Force worker goes for work in the stores. Such threats do come within the mischief of section 141 I. P. C. If this is the circumstance then in my opinion, the District Magistrate, as he chose to employ force immediately, was justified in employing the necessary immediate force. The contention of the learned counsel for the workers on this point therefore appears to me without substance.

**106. It is common ground that after the promulgation of the section 144 order, the order was explained to the workers.** They were asked to disperse within 10 minutes. They were warned several times both in Hindi and Tamil. There are a large number of Tamil speaking workers in the P.W.D. There is no dispute on this point.

**107. Order for use of force.**—The District Magistrate says that he asked Shri Bhagwat Singh to use force when the crowd did not disperse. According to him, Shri Bhagwat Singh told the crowd that they should disperse. He says that 40 to 50 P.W.D. workers left the crowd as water jet was thrown on them. According to him, after the entire water from the fire tender was thrown, tear gas shells were thrown. The District Magistrate says that the tear gas also had no effect on the crowd. People before whom the tear gas shells fell, according to the District Magistrate, moved only a few steps away but did not disperse. The District Magistrate says that when the tear gas also was of no avail the cane party was asked to go into action. He says that when the party had hardly gone into action, the crowd started pelting stones and glass bottles on the police. As a result of this stone throwing, several members of the police force were injured. On the other hand the case generally of the workers is that the police almost simultaneously started throwing water and throwing gas shells and thereafter cane charging. But that does not appear to be true. Normally the officers would not do such acts simultaneously. It is not alleged by the workers that there was any vindictiveness on the part of the officers. If that is so then I would hesitate to believe the evidence of the workers when they say that the authorities simultaneously used all sorts of forces together. On this point therefore I would rely on the evidence of the large number of witnesses of Administration who were examined for the purposes of proving this fact; there is no reason why they should not be relied upon. Therefore, I have no doubt that the use of water, the use of gas shells and the use of lathi charge was done one after the other.

**108. The case of the Administration is that because of the throwing of water, nobody moved.** It is further their case that after the tear gas was thrown nobody moved. Therefore, according to them they had to bring into action the cane party. On the other hand the case of the workers is that after the water was thrown they began to disperse and when the gas shells were exploded, the eyes of many of the workers were affected. They therefore say that they were trying to run away hither and thither but in this confusion the police opened fire on them. It would be too much for me to believe the version of the Administration when they say that none of the workers moved from their places when water was thrown and then tear gas shells were exploded. In the ordinary course of conduct, if water was thrown on this gathering of 500/600 and if gas shells are exploded amongst them, many of them would leave the place and run away. After all human nature as it is, people would not like to risk themselves and expose themselves to such precarious conditions. I have therefore no doubt in my mind that after tear gas was thrown, if not many, at least quite a few must have left the place. This conclusion is supported by the evidence on record which shows that 7 of the P.W.D. workers were affected by the tear gas and they were treated by the Medical Officer there. The case of the Administration therefore that none of the workers was affected by tear gas and therefore they did not run away is without ground. I am of the opinion that quite a few of the workers must have left the place and must have gone towards the cemetery as is stated by most of the workers.

**109. Firing ordered.**—The case of the Administration, however, is that because the crowd did not disperse although they were asked to disperse even after the throwing of water and gas shells, therefore, the cane party went into action. Shri Bhagwat Singh says that he asked the Reserve Inspector Shri Krishnaswamy to call the cane party and he in turn ordered Head Constable Banarsi Lal to form up for cane action. This witness says that the workers then started pelting stones on the police. The stones started coming from all directions where the P.W.D. strikers had assembled. The shouting from the strikers had increased. He says that the cane party crossed the culvert and the *nallah* towards the burial ground and charged at the workers, till the point 'B' shown in the sketch.



Shri Bhagwat Singh says that stone throwing had also increased at that time. He says that some of the workers were hit as a result of lathi charge and they had run away. But according to him these persons joined the other strikers who were throwing stones. Some others had also entered the burial ground. He says that the stone throwing was very heavy; that bricks and bottles were also thrown, that therefore facing this situation, the cane party was called back. He says that the Superintendent of Police and the District Magistrate were requesting the strikers not to throw stones. He says that Head Constable Bhiya Ram Kachup and Constable Ram Singh of the Fire Brigade were hit with stones. The Superintendent of Police and the District Magistrate were also hit by the stones. Four or five persons of the cane party, Head Constable Daya Shanker Pandey of tear gas squad were also hit by stones. Inspector Kishen was also hit. He fell down. He was, therefore, removed from the spot. According to this witness, the situation therefore became very tense. He then continues to state that the crowd began advancing and attacking the police. In this situation, according to this witness, the District Magistrate ordered him to get the fire party. The fire party was, therefore, brought near the mark JK on the sketch. This witness gave a warning to the strikers in Hindi that they are now going to open fire unless they disperse. The crowd according to him did not listen to him. Therefore, they had to open fire. This is also the version of the other witnesses examined on behalf of the Administration. The Administration has also examined the police constables who were members of the party in the gas squad as well as in the lathi party.

110. Shri V. Krishnaswamy, Reserve Inspector, has given a report to the Station House Officer, Aberdeen, of the injured police force on 11th April 1962 at 7-00 A.M. That is on record. That report shows that 19 persons were injured. Therefore, 19 members of the police force appeared to have been injured at first. Besides these members of the police force, it appears that Shri B. K. Halve, District Magistrate as well as the Superintendent of Police also got stone hits. It is true the injuries on everybody were of minor nature. They were either abrasions or contusions. The fact however is that so many members of the police force were injured.

111. On the other hand the case of the workers is that they neither threw stones nor any broken bottles. Their story in general is that they were peaceful and they had neither committed any violence nor had any intention of committing violence. Now, therefore, we have to see what exactly is the truth. Although a large number of workers say that they had not thrown stones, yet these are quite a few who have all stated that the stones were coming from the side of the cemetery where the workers were that a few from amongst the police party might have been injured. Some of the workers who have stated so in their written statements have omitted to state this fact in their depositions here. Devadas Veda Mathu, Gopalan, Sri Krishnan, Gangadharan and other workers of the Sarvajanic Nirman Vibhag Mazdoor Sangh have stated about the stone throwing. Therefore there is evidence also of the workers, although of a different group, who deposed that there was stone throwing on the police. I have also made an inspection of the scene of incident and there were stones and even some glass bottles lying here and there. My inspection notes are in the appendices IV and V. Therefore here is corroboration to the evidence of witnesses on behalf of the Administration.

112. Besides this evidence, there are also the injuries found on these officers as well as the members of the police force. They have also given evidence on those facts. Their medical certificates are on record. Therefore, these injuries also corroborate the evidence of the Administration. In my opinion therefore, I have no doubt that there was stone throwing on the police by the P.W.D. workers during the process of cane charging. In fact, it appears from another statement filed by the Administration that in all, after all the incident was over, there were about 30 members of the police force including the District Magistrate, who were injured by stone hits. Therefore my conclusion is that the P.W.D. workers did throw stones, brick bats and glass bottles as a result of which large number of police force was injured.

#### INCIDENTS OF FIRING

113. Nature of evidence.—On the question of actual firing, apart from the oral evidence of the superior officers and the officers who actually ordered the number of rounds and the police men who carried it out, there is also oral evidence of the workers who are injured as a result of the firing, or gas shells and lathi charge. Important evidence is also furnished by the hospital record. There are injury certificates by the medical officers of the Government hospital, Port Blair, on record. Import pieces of evidence is also furnished by the Occurrence report maintained by the Aberdeen Police Station. There are also reports submitted by the District Magistrate to the Chief Commissioner and the Administration's report to the Ministry of Home Affairs Government of India. Besides the above evidence there is also a copy of the Lok Sabha Debates where in the Hon'ble Minister for Home Affairs Shri Lal Bahadur Shastri made a statement on the police firing in the Andaman Islands.

114. The District Magistrate Shri B. K. Halve has given out in details the incident of firing. He has stated that when the cane party had hardly gone into action, the crowd started pelting stones and glass bottles on the police; that the road leading to Delanipur was completely blocked by the P.W.D. workers; that they were trying to pacify the crowd; that because of the stone throwing several members of the police force were injured. He has also received two hits and the S.P. too received hits. As the stoning continued, therefore he asked the A.S.P. Bhagwat Singh to bring the firing squad in position. According to him, because of the aggressive attitude of the mob he asked the A.S.P. to withdraw the cane party and to warn the crowd that firing would be resorted to unless they dispersed. He said that instead of dispersing at that time, the crowd started advancing and continued to throw stones; that this was in spite of the warning given to them by Shri Bhagwat Singh. According to him the crowd was violent and was advancing and therefore he had ordered Bhagwat Singh to order firing. The firing party was at point JK shown in the sketch. They were standing in an arch like

#### FIRING OPENED

position. A.S.P. Bhagwat Singh ordered the firing party to open fire, one round each over the head of the crowd. The firing party consisted of 5 constables including a head constable. They fired overhead and stopped. This firing, according to the District Magistrate, had no effect and the crowd did not disperse. On the other hand the crowd was advancing. Therefore an effective firing was ordered by the A.S.P. When this first effective firing was opened, he saw two persons falling down. According to him they fell on the main Road on points L & M marked on the map. The District Magistrate says that there was a temporary lull in the crowd after the first effective firing. Therefore the police party went forward to pick up the fallen persons. The District Magistrate says that some of the men in the crowd also came forward at that time and caught hold of the persons who had fallen on the road and obstructed the removal of that person from that place. The crowd again, according to the D.M., resumed stone-throwing. Just at that time a truck came from Delanipur side with reinforcement of police force and passed that crowd. The truck stopped there. The District Magistrate says, that the crowd pelted stones on this truck too. Because of stoning, the police personnel in the truck had to jump out from the front side to avoid hits. The D.M. says that even the arrival of the police reserve force did not make any change in the mood of the crowd; that on the other hand, the workers continued the throwing of the stones and also advanced towards the police. One A.S.I. Bhawani Dutt came in that truck and while getting down his face was hit. The reserve Inspector Krishnaswamy also got a hit. According to him the other police constables were also hit. He therefore ordered Bhagwat Singh to open fire again. At the time of the second effective firing two more constables joined the firing squad. They came in the truck; therefore the number of the firing squad this time was 7 instead of 5. They were ordered to fire two rounds each. The crowd thereupon dispersed. The people injured were put in the ambulance van and later taken to the hospital. This is therefore the story of the circumstances under which the three firings were opened.

115. My second term of reference is whether this firing was justified and necessary.

Necessity and justification.—I have mentioned in details the principles in Part II on this point. The principle in brief is that every person has a right, subject to the restriction contained in section 99 I.P.C. to defend his own body and the body of any other person against any offence affecting the human body. Section 99 so far as it is relevant, provides that the right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purposes of defence. The extent of the right is defined in sections 100 and 101 I.P.C. So far as the facts of these proceedings are concerned, it is sufficient to say that it extends to the causing of any harm, even death, to the assailant in the case of an assault which may reasonably be causing apprehension that death or grievous hurt will otherwise be the consequence of the assault; and to the causing of any harm other than death in other cases. Now, it is the case of the District Magistrate that firing was ordered because there was reasonable apprehension that the life of the officers and also the life of the police force was in danger. According to him, therefore he had ordered to open fire. Now in order to see whether this firing was justified and necessary we will have to find out whether the District Magistrate had any reasonable cause for the apprehension that death or grievous hurt would be the consequence as a result of the advance by the crowd and also as a result of the throwing of the stones by them. The case of the Administration is that there were only few members of the police force. In all on that day at the spot there were three inspectors, 1 sub-inspector and two A.S.I.s, 4 head constables, 1 L.H.C. and 22 constables. They were later increased by a reinforcement of 1 and 8 cane party and 2 armed constables and one A.S.I. The total number of workers was about 500 to 600. The case of the Administration is that the crowd during the cane charging became violent and began to

throw stones towards the police force. We have not been able to get a clear picture as to how many of the members of the police force were exactly injured before the first firing, but there is some rough evidence on this point. The case of the Administration further is that about 19 members of the police force were injured; that could be seen from the report of the R. I. V. Krishnaswamy and it is on record. Most of injuries were of course minor. They were contusions and abrasions. But it is argued by the learned counsel for the Administration that the police force was comparatively insignificant and the crowd was big. Therefore he argued that because the crowd became violent and was advancing towards the police force, the crowd of 500 to 600 workers could easily have overwhelmed the small police force of about 33. This was the force before the reinforcement of 1 and 8 cane and two armed constables with S.I. Bhawani Dutt had come there in a truck. We will therefore have to see whether this circumstance, if proved, causes a reasonable apprehension in the mind of the District Magistrate that the crowd would assault them and that such an assault could result in either death or grievous hurt.

116. I have observed above that the promulgation of an order under section 144 Cr. P.C. could have been avoided if the removal of the G.C.I. sheets from the P.W.D. store were not taken in hand on 10th April, 1962 and the L.F. workers were not brought there. The fact, however, is that the Administration chose to remove those GCI sheets on that day in spite of the strike of the workers and in spite of their demonstrations. Now, therefore, in so far as the necessity and the justification of firing are concerned I cannot take that fact into consideration in the context of the existing circumstances there. Having promulgated section 144 for the purposes of dispersing the workers in the crowd there, it was but proper on the part of the District Magistrate to see that the crowd was dispersed. He is therefore in the circumstances justified to use force. He has attempted also to disperse them with the help of water jets, gas shells and even lathi charge. The learned counsel for Labour has argued that if more force was brought, firing could have been avoided. It may be that if a larger force was posted there, things might have been different but it appears from the figures provided by the Administration that they had not touched the police force at the various police stations. It is true that those police stations had a very meagre force and if any PWD workers' crowd became violent that side, that meagre force could not have adequately protected themselves or protect the property of either the State or other persons. But the Administration did choose to keep that police force, however, meagre it may be, at the respective police stations instead of bringing them as reinforcement at Phoenix Bay on 10th April, 1962. They have therefore chosen in their own discretion not to reinforce the police force collected at the P.W.D. Stores because they had also a duty to maintain law and order elsewhere. In fact the D.M. had mentioned in so many words that he had in his mind that force would be necessary if he promulgated an order under section 144 Cr. P.C. and that he considered the force which was therefrom 6-30 A.M. to 7-30 A.M. to be adequate enough to meet the contingencies if the crowd did not disperse after the promulgation of the order. Evidently the D.M. was satisfied that the police force present there was adequate to meet any contingency. Actually it is the Superintendent of Police who had brought this force there. He says that he could not have brought more force. The S.P.'s view however is somewhat different. He says that they were particular that the crowd should disperse from that place and that he felt the need at that time to bring more police force although he thought at the same time that the force brought there would be sufficient to disperse 600 crowd. According to him after the order was promulgated, he thought the situation was critical and therefore he brought the only available additional 12 persons (police force) to the spot. They were kept at the Secretariat as stand-by. They came in the truck. Now the available striking force according to him in Port Blair consisted of 32 constables, 3 head constables, 2 A. S. Is., one S. I. and one Inspector. It appears therefore from his evidence that the only available striking force in Port Blair was also brought to the spot by the S. P. Therefore the D. M. and S. P. did bring all the available striking force.

Now the case of the Administration is that this force could have easily been overwhelmed by the advancing crowd of 500 to 600 workers who were in an excited and violent mood. If they had overwhelmed the police force, there is no doubt that these 33 members of police force would have been in danger even of their life. It appears to me that it was not possible for them to bring more force because they had chosen to keep the police force as standing guards at various other stations. If that is so then they could not have collected more force. We have therefore to consider this point in the background of the available striking force. I am of opinion that if it is proved that the crowd was violent and that if they were advancing towards the police and that if they were throwing stones on the police and injuring them then there could have been a reasonable apprehension in the mind of the D.M. that his life, the life of the police and other officers is in danger. Let us therefore see whether the Administration proves this necessity for opening the fire.

117. Evidence.—Besides the evidence of the D.M. there is also the evidence of the S.P. Shri P. S. Narsimhachar, Inspector V. R. Kishen, A.S.P. Bhagwat Singh and other police officers. There is also the evidence of the H. C. Narsing Bahadur of the Rifle party, H. C. Daya Shankar Pandey of the gas party and H.C. Bhavya Ram Kachup of the fire tender. All these witnesses corroborate the evidence of the D.M. There is also enough other evidence led by the Administration and all that evidence corroborate in all material particulars the above said evidence. On the other hand all the witnesses on behalf of the workers depose that they were neither advancing nor they were throwing any stones on the police. They have examined as many as 39 witnesses. Their general case is that they were all peaceful and they were neither throwing stones nor advancing towards the police. Other workers of the Andaman Sarvjanik Vibhag Mazdoor Sangh, however, have given an indication that there was throwing of the stones from the side of the cemetery. It is true that both of the officers as well as the workers are interested in their case and the officers are naturally interested in justifying the firing. We will therefore have to be cautious in accepting the testimony of either party.

118. Besides the abovesaid evidence there is the written statement of the District Magistrate, the S.P. and the other witnesses cited above. They were filed at the earliest opportunity before the Commission. The same material particulars are also mentioned in those written statements. Besides their written statements there is also the report of Shri B. K. Halve to the Chief Commissioner. This report is dated 13th of April 1962. Evidently therefore this was given only 3rd day of the incident. He has also mentioned there that the workers were throwing stones, glass bottles on the police force and that they were also advancing towards them and therefore he ordered firing. Therefore the earliest statement of the District Magistrate also corroborates his evidence here. Then there is the report of Shri Bhagwat Singh A.S.P. on the incident of firing. The same facts are also mentioned in this earliest report which is dated 11th April, 1962. Therefore at the earliest opportunity a mention of all these material facts are also made by these officers. There is also a F.I.R. report by the Inspector of Police Shri Bhaktawar Singh dated 10th April 1962. In that also he has mentioned that the mob did not give any heed to the warnings; that it was advancing and that it was throwing stones on the police force and therefore firing was ordered. These facts were mentioned on the same day (10th April 1962) by Inspector Bhaktawar Singh. Therefore in the background of all these reliable pieces of corroborative documentary evidence I have no reason to dis-believe that the crowd was advancing towards the police and that they were throwing stones on them. I therefore believe that evidence.

119. Besides the above said evidence there is also other corroborative evidence. They are the injuries on the members of the police force. There is a report of R. I. Krishnaswamy and this dated 11th April, 1962, 7 A.M. He has given a list of injured personnel and they are as many as 19. This piece of evidence also supports the story of the Administration that the crowd was throwing stones on the police force as a result of which they were all injured. There are also injury certificates of these policemen. These injured policemen have also given a sworn testimony about their being injured. The District Magistrate and the Superintendent of Police who were also hit, deposed so. Their injury certificates are on record. There is therefore in my opinion abundant evidence to prove that the crowd became violent; that the crowd was advancing; and that the crowd also was pelting stones on the police force and that many officers and policemen were injured. The police force was small and the crowd was big and therefore there was every chance of the police force being overwhelmed by them. The Administration therefore proves the justification as well as necessity to open fire.

120. The learned counsel for the Labour has argued here that full and specific warning has to be given to the crowd before the firing was opened. The learned counsel has argued here that such a warning was not given to the crowd. The learned counsel argues that there must have been a confusion because of the use of water, gas and lathi charge; that therefore it was all the more necessary for the police and the D.M. to explain to the crowd in Tamil that they were going to open fire if they did not disperse immediately. He contends that there was no warning given in Tamil of this firing. According to him therefore the firing came on the crowd without warning. It appears however that although the warning was not given over the loudspeaker the S.P. and Inspector Krishnaswamy were shouting in Tamil that they were now going to open fire and that they should now disperse. The A.S.P. also warned the crowd in Hindi. It would have been better, however, if they had used the loudspeaker for warning the crowd. It however appears that the S.P. as well as Inspector Krishnaswamy had shouted to the crowd in Tamil and warned them that they should disperse and that the firing was about to be opened. The explanation was also given in Hindi according to the evidence of the S.P. as well as Krishnaswamy. Therefore it is clear from the evidence that the warning was also given to the crowd to disperse immediately.

121. **Manner of Firing.**—Having opened the fire the evidence discloses that at first there was an overhead firing. Because that was not effective therefore there was next an effective firing. A.S.P. Bhagwat Singh was in charge of the police firing. He has stated that at the time of the opening of firing the crowd was in an arch marked in red pencil AICVIFCIA in the sketch. He says that he spread the firing party on the road at JK and they were also facing the crowd in an arch. He ordered the party to fire one volley one round. He asked them to take low aim. The party fired and stopped. According to him the crowd then had stepped 5 to 10 paces forward. He noticed one or two persons falling down on the road. The Administration's case is that one Perumal and one Sevagan had fallen on the road due to bullet wounds. On the other hand the case of the workers is that these two workers had fallen not on the road but at a place near the static tank. I have held for reasons stated elsewhere that just before the firing the P.W.D. workers were only on the mound opposite the cemetery and could not have been on the road leading to Delanipur. My conclusion is supported by another circumstance namely the injury on Perumal as well as Sevagan. ASP Bhagat Singh deposes here that he asked the police to fire low aim. Evidently therefore if a person is on the road he should be hit below the waist. But the ASP was recalled by this Commission and asked certain questions. He has stated in his cross-examination that the workers were about 30 to 40 feet away from the police firing squad; that although the shooting was low yet those workers who had advanced till 30/40 feet did not fall down on account of the injury. This circumstance is inconsistent with the theory that the workers had blocked the road. Therefore if the crowd was also on the road and at as short a distance as 30 to 40 feet away, a few more would have been injured on the road and fallen down. The workers therefore could not have blocked the road. The ASP has also incidentally stated that he had noted that the dead persons had injuries on the chest although the aim was low but he says that it is possible that when the person bends down to pick up something, he might receive such an injury. He however admits that he did not see either the deceased Perumal or the deceased Sevagan or another person or the deceased Shanmugam bending down and picking up stones when they were shot. In fact there is no evidence on record to show that stones were on that tar road. Stones may be on the Gandhi road side, but there were no stones on the main road. I am therefore unable to believe that Perumal and Sevagan received injuries while picking stones from the tar road. The facts however are that Perumal received an entry wound in left chest and exit wound in the back. Sevagan also had an entry wound in the abdomen and exit wound in the hip. Such an injury could not have been caused if they were on the road and if, as is stated by Shri Bhagwat Singh, that the order was to aim low. It is significant also to notice in this connection that no Panchnama of the place or the injuries on these two persons was made by the police. The case of the labour is that these two persons were found near the static tank. They have examined many witnesses on this point. They all say that these two persons were found near the static tank. I have also gone for inspection on the spot on two occasions, one on 3rd August 1962 and the second time on the 26th August 1962. Both these inspection notes are in the appendices. During the inspection I found that aiming the guns as was shown by S.H.O. Arya standing on the line JK, the police could not hit any person on the elevated ground between the gate of the grave yard and the southern end of the static tank and that it could not also hit any person in the grave yard beyond the fencing. A person on the mound near the static tank however could be hit. A person beyond the static tank may also be hit from the point 'J'. One could also hit a bullet in that position from line JK towards the Gandhi road side till a maximum distance of about 30 feet from the junction of the Gandhi road and the main road. Therefore by aiming low as was shown by Mr. Arya a person could be hit somewhere near the static tank. It is therefore quite probable that these two persons were hit near the static tank and not on the road as is alleged by the Administration. ASP Bhagwat Singh had also stated in his cross-examination that he got the firing done from the Gandhi road side to the burial road side. There was therefore no reason for any person falling on the road as a result of bullet injury. Perumal and Sevagan therefore could not have fallen on the main road. Perhaps the Administration wanted to improve their story by trying to show that these persons were almost near the police party to overwhelm the police. The evidence is however to the contrary. The workers therefore were all on the mound and not on the mound and the road. The firings therefore was all done, it appears, on the mound. A point raised by the learned counsel for the workers is that it was not necessary for the police to open fire when there were no acts of physical violence at all. In my opinion the firing, could not only be justified because there was reasonable apprehension of danger to lives of police in the mind of the District Magistrate but it was also necessary because the crowd could well have advanced very near the police and the result would have been complete confusion. We have seen that a large number of policemen and the officer injured. Surely in these circumstances the only course was to open fire, especially when other

kinds of force had failed to disperse the crowd. In order therefore to save this explosive situation, in my opinion, it was necessary for the District Magistrate to open fire. I have mentioned above that five rounds were fired at the order of Assistant Superintendent of Police, Shri Bhagwat Singh. It is however very difficult to conclude how many of the workers were injured as a result of the first effective firing. The Administration witnesses however are certain that Perumal and Sevagan were hit in the first effective firing. Shri Arya also showed the places where workers Shanmugham, Subbia, Armugam and Hamza were injured but nobody has stated at what point of time were these persons injured. Therefore it is difficult to say how many of workers were injured as a result of the first effective firing.

122. **Second effective firing.**—I will now take up the incident of the second effective firing. It appears that Perumal and Sevagan were injured and seen by the police. The police therefore went to lift these injured persons for the purpose of taking them to the hospital. The case of the Administration is that the crowd did not allow them to lift Perumal. On the other hand, the crowd became rowdy and started throwing stones. Now a point would naturally arise as to whether this part of the story of the Administration should be believed or should not be believed. I have not believed the story of the Administration that Perumal fell down as a result of the bullet injury on the road. Therefore, the first part of their story is not believable. The second part of their story is that when they went to lift Perumal for the purpose of removing him to the Hospital the workers prevented them; is this part to be believed? The District Magistrate says that after these two persons fell down, there was a lull in the throwing of the stones. Therefore they moved forward to pick up these fallen persons. The crowd also advanced and caught hold of the persons who had fallen in the middle of the road and obstructed the removal of that person from that place. The crowd according to the D.M. thereafter started throwing stones. Can this part of the story be believed?

123. The D.M. has mentioned one more circumstance which was the cause for throwing stones again and that is that at about the same time a truck with police reinforcement came on the road from Delanipur side. The crowd was even then advancing towards them and throwing stones. He has further stated that A.S.I. Bhawani Dutt came in this truck and he saw his face being hurt by a stone hit. He has also stated that the Reserve Inspector Krishnaswamy also was hurt at that time. According to him some other police constables also were hit at that time. Faced with this situation he asked Shri Bhagwat Singh to fire again. Scrutinising this evidence even disbelieving the story of the Administration that the crowd prevented the police from removing Perumal from the road, it appears there is ample evidence to show that even after the first effective firing all the crowd had not dispersed. It is quite probable that quite a few of the workers must have run away for their lives. But at the same time the D.M. says that when a truck with reinforcement came from Delanipur side and on which Assistant Sub-Inspector Bhawani Dutt also came, he was hit. Some others also were hit. Therefore, there was still stone throwing on the police after the first effective firing. According to the District Magistrate, the crowd was also advancing at that time. It must however be stated that the District Magistrate has not spoken of any advancing crowd after the first effective firing, in his written statement. The Superintendent of Police, Shri Narasimachar, has also not mentioned about the advancement of the crowd towards the police in his written statement. But the A.S.P. Shri Bhagwat Singh has given a detailed written statement and he has mentioned about advancing of the crowd after the first effective firing. In the same day Reserve Inspector Krishnaswamy has also corroborated this fact in his written statement. There is further corroboration on the point of this fact in the report of the Assistant Supdt. of Police Shri Bhagwat Singh on the incident of 10th April 1962. This is dated 11th April 1962. He has mentioned that the additional reinforcement of police also had made no effect on the mind of the mob and because the crowd was in violent mood, and was advancing, therefore, the District Magistrate ordered that few rounds may be fired again. He has stated that he then ordered the firing party to open fire—two rounds each and then stop firing. This second effective firing dispersed the mob. Therefore, the Assistant Supdt. of Police Shri Bhagwat Singh has talked about advancing of the crowd at the earliest moment on 11th April, 1962. Because of this material corroboration, I am led to believe that the mob even after the first effective firing was still violent, was throwing stones and was also advancing towards the police. More policemen were injured at this time.

124. Besides the above-said evidence there is also evidence led by the Administration of other members of the police force who had taken part in the firing and who were injured. There should be no reason to disbelieve them especially in the background of the above-said earlier statements made by Shri Bhagwat Singh injuries to more police men at this time. In so far as the throwing of stones by the crowd is concerned this fact is stated in all the earliest documents. Therefore, there should be no reason why I should be led to disbelieve these earliest statements made by the officers. Although this is the story of the Administration the story of the workers is quite different.

125. I will briefly narrate what the injured workers say. The Administration has filed a list of the P.W.D. workers injured on 10th April, 1962. They are in all 20. Besides these 20, three others were injured and died. Out of these injured persons 9 were injured by fire arms, 4 as a result of lathi charge and 7 as a result of tear gas. One of the injured persons Vergese says that at that time he stood on the elevated ground near the grave yard and that because of the gas, people were running helter and skelter. They were semi-blind. According to him, the firing also started at that time. He was near the static tank. He was also affected by tear gas; and while going aside he dashed against the wall of the static tank. According to him, a police man came and hit him with the butt-end of the gun and he fell down. He got a hit on the thigh. He was taken to the hospital when he was unconscious. He came into consciousness only in the hospital. Another worker Hamza who was injured says that he came from a shop there and when he went at the turning he was hit at his chest and it was bleeding. After some help he went towards the Gandhi road side and he noticed that bullets were flying that side. Therefore, he ran back towards the Delanipur road side. There he found that he had a bullet wound on his right hand. Armugum, another worker who was injured of bullet says that he received two hits by lathi on his shoulder and therefore he ran away. He crossed the fencing of the burial ground and while he was looking back he received a bullet hit on his left cheek. He therefore fell down. He was later removed to the hospital. Then looking into the evidence of Chalpat Rao he says that when he was by the side of the gate of the grave yard he stopped there and wiped his eyes because they were affected by the tear gas. When he was doing so, the fire was opened. He therefore was injured by a bullet on the left hand. He lost his right hand little finger and the palm of his left hand is also damaged. He got this injury near the gate of the grave yard. Then looking at the evidence of Kupanen he says that as soon as he crossed the fencing and entered the burial ground he got a bullet hit on his left leg. According to him the policemen were chasing people and shooting some persons. He was later taken by the police men from that place to the hospital. Then we come to the evidence of one Krishnan. He says that when he was running away due to lathi charge and when he crossed the fencing of the burial ground he got bullet hit. He got it on the back of the thigh. He fell down. His eyes were also affected by the gas and therefore he could not see what happened further. He was operated upon for his injuries. Another worker Chinniah says that the police were moving and beating them with lathis. He was also beaten on his back. He fell down. He was running along the fencing of the cemetery. He says that at that time he got a bullet hit on his right foot. He tried to get up but he could not. Later on he fell down on the road while going away. Another worker Srinivasan also was injured by a bullet in the centre of his forehead and his frontal bone was fractured. I have seen him and he almost escaped from the jaws of death. The bullet appears to have just passed his forehead and not entered through his brain. This witness says that he is of Bambooflat Division and when he reached the Gandhi Road side some 5 to 6 police men chased him with lathis. He therefore ran towards the Gandhi Road side. On that side there were 5 to 6 police men. He says that he was frightened and therefore came towards the static tank side. He further says that he was hit by the bullet on the forehead there. He was later on removed to the Bambooflat hospital and then to the Civil Hospital, Port Blair. There is evidence also of others who were hit by lathis and who were affected by the gas. The evidence of one differs from the other and therefore it is very difficult to come to any correct conclusion of the facts which they state. According to them, there was confusion because of the simultaneous throwing of water, throwing of gas shells and lathi charge. According to their story, the workers were running here and there and firing was opened and then they were injured. Nobody says that after the first firing workers dispersed and the second effective firing was unnecessarily opened. On the other hand their case is that firing was opened and the workers injured. In view of the inconsistencies in the evidence of workers, their version cannot be said to be reliable.

126. Looking to the above evidence it is clear that as many as 23 workers, were injured either by the bullet and by the lathi and tear gas. The number of persons injured by bullet is 9 and three more died of bullet wounds. In all therefore the total number of workers injured as a result of the firing is 12. The total number of rounds fired was 24. Out of these 24 rounds, 5 were fired overhead. Therefore, the effective firing was only of 24 rounds less 5 rounds i.e. 19 rounds. As a result of 19 rounds, therefore 9 plus 3 persons were injured. The point that might arise here is: whether this firing of 19 rounds is controlled or excessive? Looking to the number of injured person, it appears to me that the firing is not excessive. In fact it appears from the evidence of the workers that most of them were injured either in the cemetery or near the static tank and Gandhi Road side. I have noticed at the time of inspection of the site that if the guns are aimed along the JK as shown in the map, then a person in the grave yard beyond the static tank could be hit. A person on the mound near the static tank also could be hit. A person along the Gandhi Road side till some

distance also could be hit. It therefore appears to me that these workers were either hit in the grave yard beyond static tank or near the static tank or near the Gandhi Road side. These workers also corroborated to the same facts.

127. Therefore, scrutinizing all this evidence, it appears to me that even the second effective firing was justified and it was also necessary to save the lives of police men from danger because the workers were advancing; there was heavy showering of stones on the police force too. The Administration witnesses examined show how they were injured as a result of stone throwing and pelting of bottle pieces. The number of police force and officers injured were 33 as shown in part A of Appendix VI. I do not propose to go into details of the evidence of these witnesses. Suffice it to say that the evidence of these injured police men is also corroborated by the injury reports issued by the Medical Officer, Port Blair Civil Hospital. All these circumstances, therefore, led me to the conclusion that even the second effective firing was justified and necessary.

#### PART V

##### CONCLUSION

128. My conclusions for the reasons discussed in previous parts of this report are that there was a strike on 8th January 1962 by the P.W.D. workers and that they had made certain demands to the Principal Engineer at Port Blair. It appears that the workers were under a mistaken impression that the Principal Engineer had given an assurance that their demands would be decided within about 20 days or before 31st of January 1962. This impression was without any grounds. Because according to the workers there was no final decision on their demands, therefore, they again went on strike on 8th April, 1962, 9th April, 1962 and 10th April, 1962. There are, however, no justifiable grounds to conclude that there was any delay on the part of the Andaman and Nicobar Administration to consider their demands.

It is proved that the P.W.D. workers had gone in procession to the premises of the Secretariat on 9th April 1962 and obstructed the transport vehicles of several officers. With difficulty they were persuaded to disperse from the Secretariat premises, but when they heard that the Administration had engaged some Labour Force workers to remove the G.C.I. sheets from the P.W.D. godown at Phoenix Bay about 500 of them went to that place. It is also proved that these workers did obstruct and over-awe the Labour Force workers there and prevented them from doing their duties. There was no peaceful picketing by workers proved. The P.W.D. workers remained there the whole night with an intention to prevent other Labour Force workers if they were engaged during the night. It is also clear that the District Magistrate had made up his mind in the night between 9th April 1962 and 10th April, 1962 to promulgate an order under section 144 Cr. P.C. if he would find the P.W.D. workers again obstructing the Labour Force Workers the next day.

129. The violent situation at the Phoenix Bay and therefore the promulgation of the order under section 144 Cr. P.C. and also the firing on 10th April 1962 could have been avoided if the Revenue authorities and the District Magistrate had postponed the removal of loading of the G.C.I. sheets at the P.W.D. godown by some days. The loading was not urgent and they could have postponed the removal by some days. By this postponement the firing could have been avoided. But having chosen to load the G.C.I. sheets at the P.W.D. stores with the help of the Labour Force workers, the District Magistrate was confronted by a crowd of the P.W.D. workers. They were under an impression that the Labour Force workers were used as black-legs. The P.W.D. workers who had gathered there had been threatening and over-awing the Labour Force workers and the Labour Force workers therefore were prevented by them from doing their legitimate duties.

130. No peaceful picketing by the P.W.D. workers at that time is proved. The firing admittedly was resorted to by the police on the 10th April 1962 for the reasons that the crowd did not disperse by means of other force viz. water, tear gas and lathi charge. My conclusion is that the first effective firing as well as the second effective firing was not only justified but also necessary in the circumstances that existed at that time. There was no excess of force used by the police. Large number of police men were injured and there was danger to their lives because it is proved that the workers were not only throwing stones, brick-bats and glass bottles on the police force but were also advancing towards them.

131. I cannot conclude this report without expressing my appreciation of the able and dignified conduct of the proceedings before me by all the counsels appearing on behalf of different parties. The subject matter of the Inquiry some times involved questions of most acute controversy but at no stage did any counsel allow such matters to interfere with the quiet performances of their duties for which the Commission is thankful to them. I must also be thankful to the Chief Commissioner of the Andaman Islands for his whole-hearted assistance in the inquiry.

Sd/- R. R. BHOLE,  
(Commissioner of Inquiry)

NEW DELHI  
The 15th October, 1962.

V. VISWANATHAN, Secy.

## MINISTRY OF COMMERCE AND INDUSTRY

## RESOLUTION

New Delhi, the 5th January 1963

No. 20(1)/62-H.S.(I).—The Government of India have decided to nominate Shrimati Homi Taleyarkhan a non-official as member of the All India Handicrafts Board as reconstituted *vide* this Ministry's Resolution No. 20(1)/62-H.S.(I), dated the 4th August, 1962.

2. The term of office of Shrimati Taleyarkhan will be the same as for other non-official members of the Board.

## ORDER

Ordered that a copy of this Resolution be communicated to all concerned and that it be published in the Gazette of India.

A. VISVANATH, Dy. Secy.

## RESOLUTION

New Delhi, the 7th January 1963

No. 3/5/62/Tex.(B).—The Government of India in the Ministry of Commerce and Industry set up in October, 1961 a Working Group to enquire into the various problems of hosiery, knitting and embroidery industries with particular reference to matters such as:

- (a) Development of and manufacturing programme for the hosiery, knitting and embroidery industries and the machinery for such manufacture;
- (b) Phased Programme of modernisation and diversification of the industries;
- (c) Facilities for production and supply of raw materials and stores for these industries; and
- (d) Technical Organisation and financial assistance to the industries and also export promotion in respect of the products. The Working Group consisted of the following:—

## Chairman

1. Shri I. B. Dutt.

## Members

2. Shri A. K. Choudhari.
3. Shri M. Yusuf.
4. Shri S. Arunachalam.
5. Shri H. K. Jain.
6. Shri K. K. Adya.
7. Shri Otto Oelwein.
8. Shri B. H. Gujar.
9. Shri Rishi Ram Agarwal.
10. Shri G. R. Joshi.

## Member-Secretary.

11. Shri R. R. Prasad.

2. The Working Group, besides obtaining relevant data by means of a questionnaire, issued to different manufacturers, associations, concerned chambers of commerce, etc., met representatives of the industry and visited several factories and industrial centres in Bombay, Calcutta, Tirupur, Belgaum, Amritsar, Ludhiana, Chandigarh and Delhi. The Group has submitted an unanimous Report consisting of two parts, Part I relating to the embroidery industry and Part II relating to the hosiery and knitting industries.

3. While tracing the origin and development of embroidery, hosiery and knitting industries which have a long tradition of craftsmanship in the country, the Working Group has made some useful observations on the various facets of the industries. Government have noted all these observations. The recommendations contained in both parts of the Report have been carefully considered and are dealt with in the succeeding paragraphs.

## RECOMMENDATIONS IN PART I OF THE REPORT—EMBROIDERY INDUSTRY

4. Government agree with the Working Group that certain traditional types of embroidery namely:—

- (i) Kasida work and Ruffugiri;
- (ii) Chikankari; and
- (iii) Phulkari

should be reserved for the cottage sector. They also accept the recommendation that embroidery industry in the State of Jammu and Kashmir should be organised on proper lines so as to make an assessment of the needs of the industry for assistance, and that the question of their fulfilment be taken up

with the Government of Jammu and Kashmir. Government agree in principle that subject to availability of foreign exchange, the recommendation that all possible assistance for rehabilitation and modernisation should be given and that advance licences may be granted for import of spare parts, components and other auxiliary and balancing machinery against export undertaking.

5. The Working Group has recommended a limited expansion by about 26 embroidery machines. In view of the foreign exchange difficulty, Government consider that the expansion should be limited to the installation of eight machines only which may be allowed on the condition that the import of these machines will be financed from export earnings and the export guarantees will be backed by adequate safeguards. If the export possibilities are found more promising and definite in future, installation of more embroidery machines can be considered. Only latest machines which produce variety of goods for international markets should be allowed to be imported.

Government also accept the recommendation that as far as possible, better quality of indigenous art silk yarn should be made available to the industry. The working of the export incentive scheme as recently revised should be watched and reviewed, if necessary, in future in light of the experience gained.

## PART II—HOSIERY AND KNITTING INDUSTRIES

6. The Government of India are broadly in agreement with the recommendations made in Part II of the Report. The Working Group has made some specific recommendations for ensuring adequate supply of hosiery yarn at reasonable prices. The measures recommended are:—

- (i) Provision of a suitable price differential in respect of cotton hosiery yarn as an incentive to spinning mills to produce the right type of yarns in sufficient quantities;
- (ii) Establishment of Cooperative Cotton Spinning Mills solely for the purpose of production of hosiery yarn;
- (iii) Linking of production in spinning mills with hosiery units in areas where the latter are concentrated; and
- (iv) Encouragement of manufacture of synthetic yarn required for hosiery industry and licensing for actual users. Import of covered rubber thread yarn, having no indigenous angle.

7. Government accept these recommendations as in 6 (i), (ii), (iii) and (iv) above. Also along with cooperative spinning mills for the production of hosiery yarn, Government would like a few of the new licensed spinning mills to produce preponderately specialised yarn for hosiery, sewing thread, embroidery yarn and other specialised varieties of yarn.

The necessary spindles will be found from out of one million spindles reserved for Cooperatives, units of uneconomic size and other specialised purposes. As regards linking of production programme of cotton spinning mills with hosiery units, the Textile Commissioner will make every effort to arrange for the supply of hosiery yarn and other specialised yarn in the context of the overall scheme for allocation of hosiery yarn. Government accept in principle the recommendations for encouragement of production of synthetic yarn and adequate import of covered rubber thread yarn. Also in the export promotion entitlements, preference will be given to import of specialised synthetic yarn as may be required for these industries.

8. The Government of India endorse the recommendations of the Working Group that an all-out effort should be made not only to improve Indian breeds of sheep, but also to introduce grading of wool at the shearing stage so that more of the indigenous production could be utilised for the production of yarn. The Government accept in principle, within the overall availability of foreign exchange for wool industry, the need to allow import of necessary and suitable synthetic fibre or tops for blending with Indian wool/wool tops so as to make greater and better use of Indian wool/wool tops possible and also for compulsory stamping of specifications of woollen yarn required by hosiery industry.

9. Government of India also accept the Working Group's recommendations for limited expansion of the hosiery industry by installation of modern hosiery machines with adequate export guarantees.

10. Government agree to the recommendation for the revival of the Hire-purchase scheme of NSIC (National Small Industries Corporation) in respect of hosiery machines and simplification of the procedure and pattern for financial assistance. Subject to the limits of available resources, Government also accept the need for provision of financial assistance for rehabilitation and modernisation of the industry.

11. A Hosiery Machinery Demonstration Centre/Centres might be set up to demonstrate the working of indigenous hosiery machines side by side the imported hosiery machines. The recommendation for the revocation of the infructuous licences and reallocation of the capacity to deserving entrepreneurs for the manufacture of hosiery needles is already being



implemented. Government also accept the following recommendations to the effect that:—

- (i) Import of semi-finished needles should be restricted to new-comers and that too on a limited scale;
- (ii) Hosiery Needles Manufacturers should be permitted to import the requisite quality of raw materials in adequate quantities;
- (iii) Existing Import Policy may be suitably amended to allow import of spare parts of the type of overlock-machines having no indigenous angle.

12. Government of India do not consider it necessary to set up a Board on the lines of the All-India Handloom Board to look after the hosiery industry as suggested by the Working Group. It would be enough if, the Hosiery Industry forms an all-India organisation of its own to help planned development of the industry. This suggestion is commended to the hosiery industry. The Central Government will give all necessary help and encouragement to such an All-India Organisation of these Industries.

13. Government of India will take up with the Government of Punjab the recommendation to improve training facilities in the Government Hosiery Training Institute at Ludhiana and with all the State Governments concerned the question of inclusion of Hosiery Technology in the syllabus of all the Textile and other allied Institutions in the country. Wherever possible, the right type of technicians might be deputed for advance training abroad, under Foreign Technical Aid Programmes.

14. The Government wish to place on record their appreciation of the valuable work done by the Working Group.

ORDER

Ordered that a copy of the Resolution be communicated to all concerned.

Ordered also that the Resolution be published in the Gazette of India for general information.

D. K. SRINIVASACHAR, Jt. Secy.

#### RESOLUTION

New Delhi, the 7th January 1963

No. Pr.C.28(1)/62.—In pursuance of paragraph 2 of the Government of India Resolution No. Pr.C.28(1)/59, dated the 6th January 1962, published in the Gazette of India Extraordinary, dated the 8th January 1962, the Central Government Industrial Undertakings for the purpose of the Presidential Awards for Public Sector Industries during the year 1962, are as notified hereunder.—

1. Fertilizer Corporation of India Limited, Sindri Unit.
2. Heavy Electricals (India) Limited, Bhopal.
3. Hindustan Antibiotics Limited, Pimpri, Poona;
4. Hindustan Cables Ltd. P.O. Hindustan Cables, West Bengal;
5. Hindustan Housing Factory Limited, New Delhi;
6. Hindustan Insecticides Ltd., Alwaye and New Delhi;
7. Hindustan Machine Tools Limited, Bangalore.
8. Hindustan Shipyard Limited, Visakhapatnam;
9. Hindustan Steel Limited, Ranchi.
10. Indian Telephone Industries Ltd., Bangalore;
11. Nahan Foundry Limited, Nahan;
12. National Coal Development Corpn. Ltd., Ranchi;
13. National Instruments Limited, Calcutta.
14. National Newsprint & Paper Mills Ltd., Nepanagar;
15. Orissa Mining Corporation Ltd., Bhubaneswar,
16. Praga Tools Corporation Limited, Hyderabad.

ORDER

Ordered that a copy of the Resolution may be communicated to all members of the Committee for the Presidential Awards for Public Sector Industries and the Undertakings concerned.

Ordered also that the Resolution may be published in the Gazette of India for general information.

N. CHIDAMBARAM, Dy. Secy.

वाणिज्य तथा उद्योग मंत्रालय

संकल्प

नई दिल्ली, 4 दिसम्बर, 1962

(निर्यात संविदाओं के रजिस्ट्रीकरण के लिए एक समिति का गठन)

सं० 5(5)एक्स(जी)/62.—सरकार को जूट की वस्तुओं के व्यापारियों, औद्योगिकों एवं समुद्र पार के आयातकों से ऐसे अभ्यावेदन प्राप्त हुए

हैं कि जूट की वस्तुओं के कुछ पोत परिवहन बिलों (हंडियाँ) में उनकी जो जहाज तक निःशुल्क कीमतें या वास्तविक मूल्य दर्ज हैं उन पर निर्यात के समय आपीत की गई थी और इन प्रश्नों का स्पष्टीकरण होने तक पोत लदान कराने के लिए पोत वणिकों को बन्धनामें निष्पादित करने पड़े थे। अभ्यावेदनों में कहा गया है कि इसके कारण भारत के निर्यातकों और विदेशी आयातकों दोनों को पर्याप्त असुविधा हुई। अतः ऐसी प्रक्रिया निकालने का प्रश्न, जिससे कि इस लेखे होने वाली असुविधा का निवारण किया जा सके, सरकार के विचाराधीन रहा है और अब यह विनिश्चय किया गया है कि एक ऐसी संयोजना पुरःस्थापित की जाए जिसके अनुसार जूट अभिनिर्माणियों के निर्यात के लिए विक्रय-संविदाएं तत्प्रयोजनार्थ गठित एक समिति के पास स्वच्छता रजिस्ट्रीकृत कराई जाएं। यह रजिस्ट्रीकरण संयोजना सर्वथा ऐच्छिक है और पोत परिवहन के समय उनकी संविदा (जहाज तक निःशुल्क) कीमतों पर आपीत होने के कारण होने वाली असुविधा से बचने की दृष्टि से जो पोतवणिग अपनी संविदाओं को रजिस्ट्रीकृत कराना चाहते हैं वे इसका लाभ उठा सकते हैं।

2. इस संयोजना के अधीन रजिस्ट्रीकरण के लिए आवेदन, संविदा को अन्तिम रूप दिए जाने से पूर्व एक कार्य दिवस के अन्दर किया जाना चाहिये और उसके साथ निम्नीलिखित दस्तावेज होनी चाहिये।

(क) प्रस्ताव की प्रतीलीप,

(ख) क्रेताओं द्वारा प्रस्ताव की स्वीकृत मूल रूप में, और

(ग) निर्यात संविदा की विक्रेता की प्रति।

उपर्युक्त संविदाओं के सम्बन्ध में बाद में यदि कोई परिवर्तन, विस्तारण, अपखंडन और विकल्पन हों, जो कि यथास्थिति विक्रेता या क्रेता या दोनों के द्वारा स्वीकार कर लिए गए हों, तो उनका रजिस्ट्रीकरण भी उनको अन्तिम रूप दिए जाने से पूर्व एक कार्य दिवस के अन्दर कराया जाना चाहिये।

3. जिन विक्रय संविदाओं के रजिस्ट्रीकरण के लिये आवेदन किया गया है उन सभी विक्रय संविदाओं की पड़ताल ऊपर वर्णित समिति द्वारा की जाएगी जिसमें निम्नीलिखित व्यक्ति होंगे:—

अध्यक्ष

(1) श्री जी० सी० एल० जुनेजा।

सदस्य

(2) डा० वी० आर० सिर्वन्त, रिजर्व बैंक आफ इंडिया।

(3) श्री एस० के० श्रीवास्तव, सीमा शुल्क अपर संग्राहक कलकत्ता।

सदस्य-सचिव

(4) श्री जी० शिवारामन, लागत-लेखा पदाधिकारी, जूट आयुक्त कार्यालय, कलकत्ता।

4. इन संविदाओं की पड़ताल करने में, समिति संविदाओं के समय विद्यमान कीमतों, इन कीमतों से समनुज्ञेय परिवर्तनों की बाबत प्रसामान्य अभिज्ञात व्यापार प्रथाओं, संविदाओं के विस्तारणों, ऐच्छिक वृत्तों के लिए अधिशुल्कों और शास्तियों, रिबेट और व्यापार बट्टों को सम्यक्-रूपेण ध्यान में रखेगी।

5. समिति अपना यह समाधान हो जाने पर कि संविदा के निबन्धन स्वीकार्य हैं, रजिस्ट्रीकरण का आवेदन फाइल होने की तारीख से पूर्व सात कार्य दिवसों के अन्दर रजिस्ट्रीकरण प्रमाणपत्र प्रदान करेगी। विक्रय संविदाओं के बारे में दिए गए किसी व्यापार की बाबत यदि समिति का समाधान न हो तो वह पक्षकारों से किसी ऐसी अपर जानकारी की मांग कर सकेगी जो आवश्यक समझी जाए और तत्पश्चात् रजिस्ट्रीकरण प्रमाणपत्र



दे सकेंगी। यदि समिति का इस बात की बाबत समाधान नहीं होता कि संविदा व्यापार-प्रथा और उस समय विद्यमान कीमतों के अनुसार हैं तो वह प्रमाणपत्र देने से इन्कार कर देंगी। पोतभरण के समय सीमा शुल्क प्राधिकारियों के समक्ष पोत परिवहन दस्तावेजों के भाग रूप में रजिस्ट्रीकरण प्रमाण पत्र के पेश किए जाने को ही सीमा शुल्क प्राधिकारियों द्वारा मामूली तौर पर यह मान लिया जाएगा कि संविदा गत कीमतों और सम्बन्धित वित्तीय मदों के प्रविषय की बाबत पर्याप्त प्रमाण गठित हो गया है।

6. संविदाओं के बारे में रजिस्ट्रीकरण की बाबत समिति को दी गई सभी जानकारी गोपनीय समझी जाएगी।

#### आदेश

आदेश दिया जाता है कि इस संकल्प की एक एक प्रति सभी सम्बद्ध व्यक्तियों, संस्थाओं को दे दी जाए और इसे भारत के गजट में प्रकाशित कर दिया जाए।

डी० के० श्रीनिवासाचार, संयुक्त सचिव।

#### MINISTRY OF EDUCATION

New Delhi, the 1st January 1963

SUBJECT.—National Council for Higher Education in Rural Areas.

No. F. 1-2/62-U3.—In continuation of this Ministry's Notification No. F. 3-187/58-U3 dated 24th July, 1959, as amended from time to time, the following will be the composition of the National Council for Rural Higher Education upto 1st June, 1963.

(a) EX-OFFICIO:

Chairman

1. Dr. K. L. Shrimali, Minister of Education.

Vice-Chairman

2. Shri Prem Kirpal, Secretary to the Government of India, Ministry of Education.

Member-Secretary

3. Deputy Educational Adviser, University Education Division, Ministry of Education.

4. Shri K. Sachidanandam, Deputy Financial Adviser (Education), Ministry of Finance.

(b) OTHER OFFICIALS:

1. Shri L. S. Chandrakant, Deputy Educational Adviser (Technical), Ministry of Scientific Research and Cultural Affairs.

2. Shri S. K. Mukerjee, Deputy Agricultural Commissioner (Education), Indian Council for Agricultural Research, Ministry of Food and Agriculture.

3. Dr. V. Ramakrishna, Assistant Director General (Health Education), Directorate General of Health Services, Ministry of Health.

4. Deputy Secretary (Non-official, Training), Ministry of Community Development and Cooperation.

5. Shri A. W. Sahasrabudhe, Representative of Ministry of Commerce and Industry.

(c) DIRECTOR/REPRESENTATIVE OF EACH RURAL INSTITUTE:

1. Dr. P. S. Deshmukh, Representative of Rural Institute, (Amravati), 3, Raisina Road, New Delhi.

2. Dewan Anand Kumar, (Representative of Kasturba Rural Institute, Rajpura), 37, Sunder Nagar, New Delhi.

3. Shri G. Ramachandran, Hony. Director, Gandhigram Rural Institute, Gandhigram, Madurai Distt.

4. Shri T. S. Avinashilingam, Hony. Director, Shri Ramakrishna Mission Vidyalaya Rural Institute, Perianal-ckenpalayam, Coimbatore Distt.

5. Dr. R. K. Singh, Hony. Director, Balwant Vidyapeeth Rural Institute, Bichpuri, Agra.

6. Shri K. L. Bordia, Director, Vidya Bhavan Rural Institute, Udaipur.

7. Dr. Anir Ali, Director, Jamia Rural Institute, Jamia Nagar, Delhi.

8. Shri S. R. Das, Director, Institute of Rural Higher Education, Sriniketan.

9. Shri B. M. Save, Director, Shri Mouni Vidyapeeth Rural Institute, Gargoti.

10. Shri N. P. Buch, Deputy Director, Lok Bharati Rural Institute, Sanosara.

11. Shri S. Sahaya, Secretary to the Government of Bihar, Patna.

12. Shri D. J. Hatekar, Principal, Rural Institute, Wardha.

13. Shri K. F. Patil, Rural Institute, Hanumanamatti, (Mysore State).

(d) 1. DR. A. C. JOSHI VICE-CHANCELLOR, PANJAB UNIVERSITY.

2. Shrimati Indumati Chimanlal, Minister of Education, Government of Gujarat, Ahmedabad.

3. Shri K. Kellappan, Sarvodaya-puram, Gandhi Smarak Kandram, Thavanur (vta) Kuttipuram (Kerala).

4. Shri Achyut Patwardhan, Foundation for new Education, Rural Centre, Rajghat Fort, Varanasi.

(e) Shri Samuel Mathai, Secretary, University Grants Commission, New Delhi.

(f) Dr. M. D. Patel, M.D. (Cornell), Ph. D. (Wisconsin), Vice Chancellor, Sardar Vallabh Bhai Vidyapeeth, Vallabh Vidya Nagar, (Gujarat).

R. P. NAIK, Jt. Secy.

New Delhi, the 2nd January 1963

No. F.11-1/61-PE2.—In continuation of this Ministry Notification No. F.11-1/61-PE2 dated the 3rd May, 1961, Shri Badrud-Din Tyabi, Vice-Chancellor, Muslim University, Aligarh has been nominated as a member of the All India Council of Sports with immediate effect and upto the 2nd May, 1963 vice Shri A. A. A. Fyze who has since resigned.

R. L. ANAND, Under Secy.

#### MINISTRY OF SCIENTIFIC RESEARCH AND CULTURAL AFFAIRS

New Delhi, the 1st January 1963.

No. F.3(18)/62-SRI.—It is notified for general information that Shri N. B. Prasad, Andhra Sugar (P) Ltd., Secunderabad, has been nominated as member of the Board of Scientific and Industrial Research of the Council of Scientific & Industrial Research for a period of three years with effect from 1st April, 1962 vice Shri Ravi L. Kirsloskar.

A. J. KIDWAI, Jt. Secy. (Ex-Officio).

#### बैज्ञानिक अनुसंधान और सांस्कृतिक कार्य मंत्रालय

#### सूचना

नई दिल्ली, 5 अक्टूबर, 1962

एफ. 3(18)/62/एस० आर० आई.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि समिति पंजीकरण अधिनियम (1860 के 21 वें) के अनुसार काउंसिल आफ साइंटिफिक एण्ड इंडस्ट्रियल रिसर्च की शासी-सभा और बोर्ड आफ साइंटिफिक एण्ड इंडस्ट्रियल रिसर्च को दिनांक 1.4.1962 से 3 वर्ष के लिये पुनर्गठित किया गया है। इनमें निम्नलिखित सदस्य होंगे:—

#### शासी सभा

1. प्रधान मंत्र।

अध्यक्ष

2. मंत्री, बैज्ञानिक अनुसंधान तथा सांस्कृतिक कार्य।

उपाध्यक्ष

3. श्री मोरार जी देसाई, वित्त-मंत्री, नई दिल्ली ।
4. श्री के० सी० रेड्डी, वाणिज्य और उद्योग मंत्री, नई दिल्ली ।
5. श्री वी० के० कृष्णामनन, रक्षा मंत्री, नई दिल्ली ।
6. श्री के० डी० मालवीय, स्नान तथा ईंधन मंत्री, नई दिल्ली ।
7. श्री सी० सुब्रमन्यन, इस्पात तथा भारी उद्योग मंत्री, नई दिल्ली ।
8. बख्शी गुलाम मोहम्मद, प्रधान मंत्री, जम्मू और काश्मीर, श्रीनगर ।
9. श्री वाई० बी० चव्हाण, मुख्य मंत्री, महाराष्ट्र राज्य, बम्बई ।
10. श्री पी० सी० सन, मुख्य मंत्री, पश्चिमी बंगाल, कलकत्ता ।
11. श्री एस० निर्जालगप्पा, मुख्य मंत्री मैसूर राज्य, मैसूर ।
12. प्रो० एम० एस० ठक्कर, नई दिल्ली ।
13. श्री ए० के० घोष, सचिव भारत सरकार, वैज्ञानिक अनुसंधान और सांस्कृतिक कार्य मंत्रालय, नई दिल्ली ।
14. डा० एस० हुसैन जहीर, महानिदेशक, वैज्ञानिक और औद्योगिक अनुसंधान परिषद्, नई दिल्ली ।
15. सी० एस० आर्च० आर० के वित्तीय सलाहकार, संयुक्त सचिव, वित्त मंत्रालय, नई दिल्ली ।
16. डा० एच० जे० भाभा, एफ० आर० एस०, सचिव, परमाणु शक्ति विभाग, अपोलोपायर रोड, बम्बई ।
17. श्री डी० एन० भट्टाचार्य, अध्यक्ष, बंगाल नेशनल चैम्बर आफ कामर्स, कलकत्ता ।
18. डा० एस० भगवंतम्, महानिदेशक, प्रतिरक्षा अनुसंधान और विकास संगठन, नई दिल्ली ।
19. श्री के० के० बिडला, कलकत्ता ।
20. प्रो० एस० एन० बोस, एफ० आर० एस०, राष्ट्रीय प्राध्यापक, 22, ईश्वर मिल लेन, कलकत्ता ।
21. श्री जे० जे० घेंडी, टाटा आयरन एण्ड स्टील कं० लिमिटेड, जमशेदपुर ।
22. डा० के० ए० हमीद, 289, बेलासिस रोड, बायकला, बम्बई ।
23. श्री एस० एस० खेरा, सचिव, मंत्रीमंडल, मंत्रीमण्डल सचिवालय, नई दिल्ली ।
24. डा० डी० एस० कोठारी, अध्यक्ष, विश्वविद्यालय अनुदान आयोग, नई दिल्ली ।
25. श्री अरीवन्द एन० मफतलाल, मफतलाल हाउस, ब्लैकबे रिक्ले-मेशन्स, बम्बई-1 ।
26. प्रो० पी० सी० महालानोबिस, एफ० आर० एस०, 8, किंग जार्जस एवेन्यू, नई दिल्ली ।
27. प्रो० पी० माहेश्वरी, दिल्ली विश्वविद्यालय, दिल्ली ।
28. डा० रामास्वामी मुद्गलियर, "इंडिया स्टीमशिप हाउस", 21, ओल्ड कोर्ट हाउस स्ट्रीट, कलकत्ता ।
29. डा० विक्रम ए० साराभाई, फिजिकल रिसर्च लैबोरेटरी, नवरंगपुरा, अहमदाबाद-9 ।
30. लाला श्री राम, 22, कर्जन रोड, नई दिल्ली ।
31. श्री जे० आर० डी० टाटा, चेंबरमैन, टाटा इण्डस्ट्रीज लिमिटेड, बाम्बे हाउस, ब्रूक्स स्ट्रीट, बम्बई ।
32. डा० डी० एन० वाडिया, एफ० आर० एस०, 10, किंग जार्जस एवेन्यू, नई दिल्ली-11 ।
33. ये दो सदस्य बोर्ड आफ साइंटिफिक एंड इंडस्ट्रियल रिसर्च
34. द्वारा चुने जाएंगे ।

### बोर्ड आफ साइंटिफिक एंड इंडस्ट्रियल रिसर्च

1. प्रधान मंत्री । अध्यक्ष
2. मंत्री, वैज्ञानिक अनुसंधान और सांस्कृतिक कार्य । उपाध्यक्ष
3. श्री एन० कानूनगो, उद्योग मंत्री, नई दिल्ली ।
4. श्री मनुभाई शाह, मंत्री अंतर्राष्ट्रीय व्यापार, नई दिल्ली ।
5. श्री बी० पटनायक, मुख्य मंत्री, उड़ीसा, भुवनेश्वर ।
6. श्री आर० शंकर, मुख्य मंत्री, केरल ।
7. प्रो० एम० एस० ठक्कर, नई दिल्ली ।
8. डा० एस० हुसैन जहीर, महानिदेशक, वैज्ञानिक और औद्योगिक अनुसंधान, नई दिल्ली ।
9. डा० डी० बेंजर्जी, द्वारा नेशनल रबर मैन्युफैक्चरर्स लिमिटेड, कलकत्ता ।
10. डा० एच० जे० भाभा, एफ० आर० एस०, सचिव, परमाणु शक्ति विभाग, अपोलो पायर रोड, बम्बई ।
11. डा० एस० भगवंतम्, महानिदेशक, प्रतिरक्षा अनुसंधान और विकास संगठन, नई दिल्ली ।
12. प्रो० एस० एन० बोस, एफ० आर० एस०, राष्ट्रीय प्राध्यापक, 22, ईश्वर मिल लेन, कलकत्ता ।
13. श्री जी० के० देवाराजुलु, अवनाशी रोड, कोयम्बटूर ।
14. श्री डी० सी० बैजल, अध्यक्ष, रेलवे बोर्ड, नई दिल्ली ।
15. श्री वाई० ए० फजलभाई, फोटो फोन इन्वेषमेंट (प्रो०) लिमिटेड, 11 मरीन लाइन्स, बम्बई-1 ।
16. डा० गुरुबक्श सिंह, रसायन विभाग के अध्यक्ष, पंजाब विश्व-विद्यालय, चंडीगढ़ ।
17. डा० अखलाक आर० किदवई, रसायन के प्राध्यापक, अलीगढ़ ।
18. श्री रवि एल० किलोस्कर, किलोस्करवाडी, जिला-ससारा, महाराष्ट्र ।
19. डा० डी० एस० कोठारी, अध्यक्ष, विश्वविद्यालय अनुदान आयोग, नई दिल्ली ।
20. प्रो० एस० मोहदी अली, प्राणि विज्ञान के प्राध्यापक, मराठ वाडा विश्वविद्यालय, औरंगाबाद ।
21. प्रो० पी० सी० महालानोबिस, एफ० आर० एस०, 8 किंग जार्जस एवेन्यू, नई दिल्ली ।
22. श्री के० एन० मुकर्जी, बकुलिया हाउस, कलकत्ता ।
23. श्री पी० ए० नारियलवाला, टाटा इंडस्ट्रीज, बाम्बे हाउस, ब्रूक्स स्ट्रीट, बम्बई ।
24. डा० एस० आर० पलित, इंडियन एसोसिएशन फार दि कल्टी-वेशन आफ साइंसेज, कलकत्ता ।
25. डा० सी० जी० पीडित, निदेशक, भारतीय चिकित्सा अनुसंधान परिषद्, नई दिल्ली ।
26. डा० बी० पी० पाल, निदेशक, भारतीय कृषि अनुसंधान संस्थान, नई दिल्ली ।
27. श्री अब्दुल कादिर, चीफ इलेक्ट्रिकल इंजीनियर, आंध्र प्रदेश, हैदराबाद ।
28. लाला श्री राम, 22 कर्जन रोड, नई दिल्ली ।
29. डा० जी० एन० रामचन्द्रन, भौतिकी के प्राध्यापक, मद्रास विश्व-विद्यालय, मद्रास ।

30. श्री पी० आर० रामाकृष्णन, प्रिंसिपल, कोयम्बतूर इंस्टीट्यूट आफ टेक्नोलॉजी, कोयम्बतूर ।
31. डा० एम० एस० रणधावा, सलाहकार, प्राकृतिक साधन, योजना आयोग, नई दिल्ली ।
32. डा० ए० के० साहा, साहा इंस्टीट्यूट आफ न्यूक्लियर फिजिक्स, कलकत्ता ।
33. श्री के० सी० शर्मा, जनरल मैनेजर, नांगल यूनिट, फीटलाइजर कारपोरेशन आफ इंडिया लिमिटेड, नांगल ।
34. डा० विगुना सेन, रैंक्टर, जादवपुर विश्वविद्यालय, कलकत्ता ।
35. डा० डी० एन० वाडिया, एफ० आर० एस०, 10 फींग जार्जस एवेन्यू, नई दिल्ली-11 ।
36. डा० बी० आर० निभावन, निदेशक, राष्ट्रीय धातुकर्म जमशेदपुर ।
37. डा० वाई० नाइडम्मा, निदेशक, केंद्रीय चमड़ा अनुसंधान संस्थान, मद्रास ।
38. डा० बी० सुब्रमण्यन, निदेशक, केंद्रीय खाद्य औद्योगिक अनुसंधान संस्थान, मैसूर ।
39. डा० जे० सी० रे, निदेशक, इंडियन इंस्टीट्यूट आफ बायो-कॉमिस्ट्री एण्ड एक्सपेरिमेंटल मैडीसिन, कलकत्ता ।

## सूचना

नई दिल्ली, 1 जनवरी, 1963

क्रमांक एफ. 3(18)/62-एस० आर० आर्इ०.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि श्री एन० बी० प्रसाद आन्ध्र शुगर (प्राइवेट) लिमिटेड, सिकन्दराबाद, 1 अप्रैल, 1962, से तीन वर्ष के लिए, श्री रवी एल० क्लॉस्कर के स्थान पर कॉर्पोरेट आफ साइटीफिक एण्ड इंडस्ट्रियल रिसर्च के बोर्ड आफ साइटीफिक एण्ड इंडस्ट्रियल रिसर्च के सदस्य नामजद किए गए हैं ।

ए० जे० किदवई,  
संयुक्त सचिव ।  
(पर्वन)

## MINISTRY OF HEALTH

New Delhi, the 5th January 1963

No. F.13-10/62-PH.—The services of Dr. P. N. Sen Gupta, Chief Technical Officer, Central Food Laboratory, Calcutta, are placed at the disposal of the Food and Agriculture Organisation of the United Nations, Rome, with effect from the 31st October, 1962 (afternoon) and until further orders.

B. B. L. BHARADWAJ, Under Secy.

## MINISTRY OF TRANSPORT AND COMMUNICATIONS

(Department of Transport)

(Transport Wing)

## RESOLUTIONS

New Delhi, the 31st December 1962

No. 13-PG(59)/62.—The Government of India have received the Administration Report of the Port of Madras for the year 1961-62. The following are the noteworthy features in the Report:—

1. Financial Position.—The Revenue receipts of the Port Trust for the year under review amounted to Rs. 863.79 lakhs as against Rs. 300.33 lakhs in the previous year.

The net expenditure for the year, including debt charges, amounted to Rs. 232.46 lakhs as against Rs. 190.92 lakhs during the previous year.

During the year under review, the Port Trust contributed a sum of Rs. 218.69 lakhs to its capital account, Rs. 36.05 lakhs to the Renewals and Replacements Fund and Rs. 1 lakh to the General Insurance Fund.

The receipts as well as expenditure of the Pilotage Fund amounted to Rs. 8.80 lakhs. The expenditure included a contribution of Rs. 4 lakhs to the Revenue Account.

The balances in the various Reserve Funds at the end of the year aggregated to Rs. 1.79 crores. Besides the Trust had a closing balance of Rs. 2.01 crores in the Revenue and Pilotage Fund Accounts.

Outstanding Loans.—(i) The total amount of Government of India loans outstanding was Rs. 4.37 crores.

(ii) A sum of Rs. 2.53 crores had been withdrawn from the International Bank for Reconstruction and Development upto the end of the 31st March, 1962 against a total amount of Rs. 6.67 crores agreed to by the Bank as loan.

2. Traffic.—There was an increase in the volume of trade passing through the Port during the year under review. The figure of dead-weight tonnage of imports and exports which passed through the Port during the year was 2,268,853 and 1,198,290 respectively. The corresponding figures for the previous year were 2,127,852 tonnes (imports) and 910,575 tonnes (exports).

The total volume of coastal trade for the year 1961-62 was 910,657 tonnes as against 817,358 tonnes in the previous year. Foreign trade rose from 2,221,069 tonnes in 1960-61 to 2,526,486 tonnes in 1961-62. The export of ores rose from 693,544 tonnes to 955,552 tonnes. The tonnage of coal imported during the year was 424,110 tonnes as against 362,840 tonnes during the previous year.

Quantities amounting to 122,173 tonnes of coal and 613,859 tonnes of iron ore were handled mechanically at the mechanised berths during the year. Mechanisation has resulted in an increase in the capacity of the port for handling coal and iron ore.

3. Shipping.—The number of ships, excluding sailing vessels, that entered the Port during the year was 1,276 as against 1,239 in the previous year. The net tonnage also increased from 4,951,231 to 4,957,242. Thirteen sailing vessels with a net tonnage of 1,201 arrived during the year as against six with a net tonnage of 365 in the last year.

During the year under review 59,288 passengers used the port as against 65,830 passengers in the previous year.

4. Labour.—The labour situation during the year was satisfactory. Labour Welfare measures continued to receive special attention.

5. Works.—(i) The construction of side walls, quay apron etc. for the Wet Dock was in progress.

(ii) Work on the dry excavation of the Wet Dock was completed. The wet excavations were in progress.

(iii) Work on Entrance to the Wet Dock was in progress. The design of the scheme was revised during the year.

(iv) The reconstruction of South Quay I was in progress.

(v) 4 numbers of type IV and 4 numbers of type III quarters were completed and allotted for occupation.

(vi) Works on the Elementary School and dispensary were nearing completion.

(vii) The Third Plan Housing Scheme and Dock Labour Board Housing Scheme were taken up during the year.

(viii) Work on the remodelling of Timber Pond was taken up during the year and was in progress.

(ix) Fire Fighting arrangements in the Marshalling Yard were nearing completion.

(x) One Hopper Suction Dredger of 1500 tons capacity was acquired under the World Bank Loan.

(xi) Twelve Diesel Hydraulic Locomotives were acquired from Canada under the Colombo Plan Programme.

6. Maintenance.—During the year, the depths at the berths and entrance approaches were maintained satisfactorily.

7. Miscellaneous.—The Trust controlled itself as a member of the Administrative Staff College of India, Hyderabad during the year.

The Board implemented the scales of pay as recommended by the "Classification and Categorization Committee" with effect from 1st October 1957 and the arrears due were paid to the employees during the year.

## ACKNOWLEDGEMENT

The Port Trust Board performed another year of useful work and Government view with appreciation the work done by the Board during the year under review.

## PORTS

New Delhi, the 3rd January 1968

No. 6-PG(39)/60—The Government of India are pleased to decide that the term of the Cochin Harbour Advisory Committee constituted under the Ministry of Transport and Communications, Department of Transport resolution No. 6-PG(39)/60, dated the 17th January 1961 shall be extended upto the 31st March, 1968.

ORDERED that this Resolution be published in the Gazette of India.

C. VENKATESWARA AYYAR, Secy.

## परिवहन तथा संचार मंत्रालय

## परिवहन विभाग

## (परिवहन पक्ष)

नई दिल्ली, 31 दिसम्बर, 1962

संख्या 12-पी०जी०(59)/62.—भारत सरकार को मद्रास पत्तन की 1961.62 की प्रशासनिक रिपोर्ट प्राप्त हो गई है। इसके महत्वपूर्ण तथ्य निम्नलिखित हैं:—

## 1. वित्तीय स्थिति:

विचाराधीन वर्ष में पोर्ट ट्रस्ट को 363.79 लाख रुपये की राजस्व आय हुई। इसके विपरीत पिछले वर्ष 300.33 लाख रुपये की आय हुई थी।

ऋण को मिला कर इस वर्ष 232.46 लाख रुपये का व्यय हुआ। इसके विपरीत पिछले वर्ष 190.92 लाख रुपये व्यय हुए थे।

विचाराधीन वर्ष में पोर्ट ट्रस्ट ने पूंजी खाते में 218.69 लाख रुपये, नवीकार तथा प्रतिस्थापन फण्ड में 36.05 लाख रुपये और सामान्य बीमा निधि में 1 लाख रुपये का अंशदान दिया।

कनहारी फण्ड का आय और व्यय 8.80 लाख रुपये हुआ। राजस्व खाते में दिये गये 4 लाख रुपये का अंशदान भी इस व्यय में शामिल है।

इस वर्ष के अन्त में विभिन्न रिजर्व फण्डों में शेष धन कुल मिला कर 1.79 करोड़ रुपये था। इसके अलावा ट्रस्ट के राजस्व और कनहारी फण्ड खातों में 2.01 करोड़ रुपये इतिशेष रहा।

## बाकी ऋण:

(1) भारत सरकार के ऋण की कुल राशि 4.37 करोड़ रुपये बाकी थी।

(2) पुनर्निर्माण एवं विकास के अन्तर्राष्ट्रीय बैंक ने 6.67 करोड़ रुपये के ऋण की स्वीकृति दी थी इस राशि में से 31 मार्च 1962 तक 2.53 करोड़ रुपये निकाले गये।

2. आयात.—विचाराधीन वर्ष में इस पत्तन में हुए व्यापार में वृद्धि हुई। इस वर्ष इस पत्तन से कुल 2268853 टन और 1198290 टन का क्रमशः आयात और निर्यात हुआ। पिछले वर्ष से संख्याएं 2127852 टन (आयात) और 910575 टन (निर्यात) थी।

1961.62 में तटीय व्यापार कुल 940657 टन का हुआ। इसके विपरीत इस से पिछले वर्ष 817358 टन का व्यापार हुआ था। 1960.61 में विदेशी व्यापार 2221069 टन का हुआ था और 1961.62 में वह बढ़ कर 2526486 टन हो गया। कच्ची धातु का निर्यात 693544 टन से बढ़ कर 955552 टन हो गया। इस वर्ष 424110 टन कोयले का आयात हुआ इसके विपरीत पिछले वर्ष 362840 टन कोयला आयात किया गया था।

इस वर्ष यांत्रिक घाटों पर 122173 टन कोयला और 613859 टन कच्चा लोहा मशीनों द्वारा बोया गया। घाटों के यंत्रीकरण के फलस्वरूप पत्तन की कोयला तथा कच्चा लोहा दोनों की क्षमता में वृद्धि हुई है।

3. जहाजरानी.—इस वर्ष पाल पोतों को छोड़ कर 1276 जहाज इस पत्तन पर आए; इसके विपरीत पिछले वर्ष 1239 जहाज आये थे। इस पत्तन पर आने जाने वाला कुल माल 4951231 टन से बढ़ कर 4957242 टन हो गया। इस वर्ष कुल 1201 टन निवल टन भार के 13 पाल पोत इस पत्तन पर आये। इसके विपरीत पिछले वर्ष 365 टन निवल टनभार के 6 जहाज आये थे।

विचाराधीन वर्ष में इस पत्तन पर आने-जाने वाले यात्रियों की संख्या 59288 थी इसके विपरीत पिछले वर्ष यह संख्या 65330 थी।

4. श्रम.—इस वर्ष श्रमिक स्थिति संतोषजनक रही। श्रमिक कल्याण के उपायों पर पूर्ववत् विशेष ध्यान दिया जाता रहा।

5. निर्माण कार्य.—(1) सजल गोंदी के लिए बगली दीवारों, घाट के एमन आदि का निर्माण कार्य जारी रहा।

(2) सजल गोंदी की सूखी खुदाई का काम पूरा हो गया। पानी में खुदाई का काम जारी है।

(3) सजल गोंदी के मुहाने का निर्माण कार्य जारी है। इस वर्ष इस योजना के डिजाइन का संशोधन किया गया।

(4) दीक्षणी घाट 1 का पुनर्निर्माण कार्य जारी रहा।

(5) चौथी टाइप के और तीसरी टाइप के चार चार क्याटर तैयार हो गए और रहने के लिए अलाट कर दिये गये।

(6) प्राथमिक स्कूल और चिकित्सालय का निर्माण कार्य लगभग पूरा होने को है।

(7) इस वर्ष तीसरी पंचवर्षीय आवास योजना और गोंदी श्रम मण्डल आवास योजना का काम शुरू किया गया।

(8) इस वर्ष टिंबर पांड के ढांचे के बदलने का निर्माण कार्य शुरू किया गया था और यह काम जारी है।

(9) विन्हास (मार्शलिंग) यार्ड में आग बुझाने की व्यवस्था लगभग तैयार कर दी गई है।

(10) विश्व बैंक ऋण के अन्तर्गत 1500 टन क्षमता का एक हापर सक्शन ड्रजर प्राप्त किया गया।

(11) कोलम्बो योजना कार्यक्रम के अन्तर्गत कनाडा से 12 डीजल हाइड्रोलिक लॉकमोटाइव प्राप्त किए गए।

6. षरेभाल.—इस वर्ष घाटों और उनके मुहानों पर गहराई संतोषजनक बनाई रखी गई।

7. विविध.—इस वर्ष ट्रस्ट ने भारत के प्रशासनिक स्टाफ कालेज, हैदराबाद की सदस्यता प्राप्त की।

इस वर्ष बोर्ड ने श्रंषीकरण और वर्गीकरण समिति द्वारा सिफारिश किए गए वेतन क्रम को 1 अक्टूबर, 1957 से लागू किया और कर्मचारियों को बाकी दिये राशि का भुगतान कर दिया गया।

सलाहना.—पत्तन ट्रस्ट बोर्ड ने इस वर्ष भी उपयोगी कार्य किया और विचाराधीन वर्ष में बोर्ड द्वारा किए गए काम को सरकार सलाहना की दृष्टि से देखता है।

### संकल्प

#### पत्तन

नयी दिल्ली, 3 जनवरी, 1963

संख्या 6-बीजी(39)/60—भारत सरकार सहर्ष निर्णय करती है कि परिवहन तथा संचार मंत्रालय, परिवहन विभाग के संकल्प संख्या 6-बीजी(39)/60 दिनांक 17 जनवरी, 1961 के अंतर्गत बनायी गयी कोचीन हारबर सलाहकार समिति की अवधि 31 मार्च, 1963 तक बढ़ा दी जायगी।

आदेश दिया जाता है कि यह संकल्प भारत के राजपत्र में प्रकाशित कर दिया जाय।

गोपाल धेंकटेश्वर अय्यर, सचिव।

### MINISTRY OF LABOUR AND EMPLOYMENT

#### RESOLUTION

New Delhi, the 2nd January 1963

No. WB-3(60)/62.—The Central Wage Board for tea plantation Industry, Calcutta, set up by the Government of India by their Resolution No. WB-3(12)/59, dated the 5th December, 1960, has considered the question of granting interim wage increase to labour in the Tea estates in the State of Mysore, and its recommendations on the subject are appended.

2. The Government of India have accepted the Board's recommendations and decided to request the employers to implement the same as early as possible.

#### ORDER

Ordered that a copy of the Resolution be communicated to all concerned.

Ordered also that the Resolution be published in the Gazette of India for general information.

#### APPENDIX

#### Central Wage Board for Tea Plantation Industry

The Central Wage Board for Tea Plantation Industry had, while making recommendations for an interim wage increase in respect of South India, not made any recommendation in regard to labour in the Tea estates in Mysore State in view of an agreement made in 1960. That agreement having now come to an end by efflux of time, the Board has considered the matter regarding the labour in Tea estates in Mysore State and makes the following recommendations:—

1. In regard to labour employed in Tea estates in the State of Mysore, the workers will get an interim increase in such a way that their daily wages come to the following:—

Grade I (Adult male workers)	Rs. 1.75 nP.
Grade II (Adult women workers)	Rs. 1.35 nP.
Grade III (Adolescents) ..	Rs. 1.15 nP.
Grade IV (Children)	Rs. 0.95 nP.

2. The new wages will be paid as from 10th August, 1962.

3. In case of mixed estates in Mysore State, their wages will be in accordance with the existing conventions and practice.

Sd./-

L. P. DAVE,

Sd./-

J. B. SOUTAR,

Sd./-

G. RAMANUJAM,

Sd./-

N. AHMED

Secretary.

21st December, 1962

P. M. MENON, Secy.

New Delhi, the 5th January 1963

No. WB-11(39)/62.—It is hereby notified for general information that the headquarters of the Central Wage Board for Iron and Steel Industry, Patna, set up by Government of India by their Resolution No. WB-11(1)/61, dated the 5th January, 1962, will be shifted to Indore with effect from the 16th January, 1963. All correspondence intended for the Board, may from that date, be addressed to the Chairman, Central Wage Board for Iron and Steel Industry, C/o Commissioner of Labour, Madhya Pradesh Government, Buxibagh, Indore.

#### RESOLUTION

New Delhi, the 4th January 1963

No. WB-20(3)/62.—In partial modification of the Ministry of Labour & Employment Resolution No. WB-20(9)/61, dated the 6th December, 1961, Shri K. B. Mathur is appointed as a member to represent the employers on the Bonus Commission, Bombay, *vice* Shri D. Sandilya resigned.

#### ORDER

Ordered that a copy of the Resolution be communicated to all concerned.

Ordered also that the Resolution be published in the Gazette of India for general information.

B. R. SETHI, Dy. Secy

#### श्रम और रोजगार मंत्रालय

#### संकल्प

नई दिल्ली, 3 दिसम्बर, 1962

संख्या 544/49/62-क०.—कारखानों और प्रतिष्ठानों में, जहाँ अनु-पस्थिति कम हो जाय और दक्षता बढ़ जाय, कामगारों के समूहों को और उन्हें व्यक्तिगत रूप में, पंचाट देने की व्यवस्था करने के लिए श्रम, रोजगार और आयोजना मंत्री द्वारा बजट अधिवेशन के दौरान जून, 1962 में किए गए एलान के अनुसार भारत सरकार ने इस प्रयोजनार्थ योजना तैयार करने के लिए, एक विशेष समिति स्थापित करने का निर्णय किया है।

2.—समिति का गठन इस प्रकार होगा:—

- (1) श्री नाथ पाई, संसद सदस्य (लोक सभा)
- (2) श्री बी० चिनाई, संसद सदस्य (राज्य सभा)
- (3) श्री जी० एस० मेलकोटे, संसद सदस्य (कामगारों व प्रतिनिधि)
- (4) श्री पी० चेंसल राव (नियोजकों के प्रतिनिधि)
- (5) श्री क० सी० शर्मा, जनरल मैनेजर, फीटलाइजर कारपोरेशन आफ इंडिया लि०, नंगल (सरकारी क्षेत्र के उद्योगों व प्रतिनिधि)
- (6) श्री एस० क० बासु, अध्यक्ष, अर्थ विभाग, कलकत्ता विश्व विद्यालय।
- (7) डा० एस० टी० मेरानी, आ० एस० डी० और पर्दन संयुक्त सचिव, श्रम और रोजगार मंत्रालय, नई दिल्ली।
- (8) श्री एन० एस० मनकीकर, कारखानों के मुख्य सलाहका (संयोजक)

#### मंत्री

श्री एच० एन० जगत्यानी, कारखानों के सहायक मुख्य सलाहका कारखानों के मुख्य सलाहकार का कार्यालय, नई दिल्ली।

## 3. समिति के विचारार्थ विषय ये होंगे:—

(क) कारखानों और प्रतिष्ठानों में, जहाँ अनुपस्थिति कम हो जाय और दक्षता बढ़ जाय, कामगारों के समूहों को और उन्हें व्यक्तिगत रूप में पंचाट देने के लिए योजना तैयार करना,

(ख) विचार करना और सुझाव देना आयाकि निम्न प्रकार की अन्य कसौटियां पंचाट का आधार हो सकती हैं:—

(अ) उपस्थिति ।

(आ) अच्छी गृह-व्यवस्था,

(इ) उत्तम मजदूर कल्याण सुविधाएं,

(ई) अच्छे औद्योगिक सम्बन्ध;

(उ) समान परिस्थितियों में काम करने वाले एक जैसे संगठनों या उद्योगों या व्यक्तियों की उत्पादितता या निकासी का निर्धारण;

(ग) विचार करना आयाकि निम्नलिखित मसौदा योजनाओं के उद्देश्यों और उपयुक्त उप-यंत्र (क) और (ख) में

निर्दिष्ट उद्देश्यों की पूर्ति के लिए व्यापक योजना बनाई जाए:—

(अ) राष्ट्रीय सुरक्षा पंचाट,

(आ) सुरक्षा सुझावों पर पुरस्कार;

(इ) “श्रम पंडित” राष्ट्रीय पंचाट,

(घ) विचार करना आयाकि तैयार की जाने वाली योजना की परिधि में विभिन्न संगठित उद्योग, जिनमें बागान, खानें और गोदियां सम्मिलित हैं, आने चाहिए।

4. समिति के गैरसरकारी सदस्यों को समिति की बैठकों में उपस्थित होने के लिए केंद्रीय सरकार के नियमों के अनुसार परिवहन-भत्ता और दैनिक भत्ता दिया जाएगा।

5. समिति का मुख्यालय कारखानों के मुख्य सलाहकार के कार्यालय 2-ए/3, आसफ अली रोड, कुन्दन मैनशन, नई दिल्ली में होगा और समिति को भेजे जाने वाले सभी पत्र संयोजक अथवा मंत्री को भेजे जायें।

पी० डी० गेहा, अवर सचिव।